

# **Serbia**

## **Corridor X Highway Project**

### **E-75 and E-80**

#### **Resettlement Policy Framework**

**Final Version May 18, 2009**

THIS DOCUMENT REPRESENTS THE RESETTLEMENT POLICY FRAMEWORK (RPF) FOR THE CORRIDOR X HIGHWAY PROGRAM, INCLUDING THE SECTIONS FINANCED BY THE WORLD BANK. THE FORMAL RESPONSIBILITIES OF THE WORLD BANK IN THIS RESPECT ONLY APPLY TO THE SECTIONS THAT IT IS CONTRIBUTING IN WHOLE OR IN PART TO THE FINANCING.

THE RPF DESCRIBES THE POLICIES, PROCEDURES AND PROCESSES THAT WILL BE FOLLOWED THROUGHOUT THE PROGRAM AND THE PROJECT IN THE COURSE OF COMPENSATION/RESETTLEMENT OF PROJECT AFFECTED PERSONS, WITH AND WITHOUT LEGAL TITLE, WHOSE LAND/PROPERTIES, OR BUSINESSES ARE ACQUIRED FOR THE EXECUTION OF THE CORRIDOR X HIGHWAY PROGRAM AND PROJECT

#### **BACKGROUND**

The Government of the Republic of Serbia wants to develop and complete the core road infrastructure on Corridor X within the next 4 years. The objective is to facilitate sustainable economic development and ensure that the country capitalizes on its geographical position to continue its development as a key transit country on the Trans-European Network. The Government of the Republic of Serbia requested the assistance of the World Bank (WB) to lead the preparation and contribute to the financing of a program to develop the two southern sections of Corridor X.

The total cost of the World Bank Corridor X Highway project, in a parallel financed contribution to the total program, is EUR 298.5 million (US\$ 388 million equivalent) which will be co-financed with the Government of Serbia. In addition, two other International Financing Institutions, the European Bank for Reconstruction and Development (EBRD), and the European Investment Bank (EIB), (hereafter referred to collectively as the IFIs), and one bilateral donor, the Hellenic Plan for the Economic Reconstruction of the Balkans (hereafter referred to as HiPERB) have confirmed their commitment to provide parallel financing to a broader Corridor X program to construct 160 km of motorway at a provisional cost estimate of Euros 1.3 billion: EBRD has provisionally committed to lend EUR 150 million for the E-80, and the EIB has provisionally committed to lend up to EUR 600 million for the E-80 and the E-75, and Greece will grant EUR 100 million under HiPERB which will be allocated to one section of the E-75 between Donji Neradovac and Levosoje.

It is the intention of the Government of the Republic of Serbia that the provisions of this Resettlement Policy Framework shall also apply to the other IFI parallel financed sections. However, the formal responsibilities of the World Bank will only apply to those specific sections that are financed in whole or in part by the World Bank, and described in the subsequent paragraphs below.

## **WB PROJECT OBJECTIVES AND COMPONENTS**

The Project Development Objective of the WB financed project is to increase transport efficiency and improve traffic safety on three project sections of Corridor X, between Niš and Dimitrovgrad and Grabovnica and Donji Neradovac respectively, and to improve road management and road safety in Serbia. The project proposes to achieve this objective through the following activities:

The World Bank financed project will consist of the following four components:

- a) **Component 1 - The M-1 road to FYR Macedonia (E-75) – Corridor Xd.** This component involves the construction of two sections of motorway totaling 31.9 km between Grabovnica and Grdelica, and between Vladicin Han and Donji Neradovac;
- b) **Component 2 - The M 1-12 Road to Bulgaria (E-80) – Niš – Dimitrovgrad - Corridor Xc.** This component the construction of 8.67 km of motorway on a section of the corridor between Dimitrovgrad and the border with Bulgaria;
- c) **Component 3 - Road Safety:** This component will support, amongst others, plans for: (i) road safety capacity building to support the establishment of a lead agency in the form of the National Road Safety Council (NRSC); (ii) creation of a road safety performance framework; and (iii) developing and launching a national road safety strategy; and
- d) **Component 4 - Implementation Assistance and Institutional Support:** This component will include, inter alia, the following sub-components: (i) independent environmental and social supervision directly reporting to the client; (ii) project managerial support to Koridor 10 Društvo sa Ograničenom Odgovornošću (hereafter K10DOO) to assist in the implementation of the project; (iii) independent technical audit of the civil works; (iv) procurement assistance, and other necessary technical assistance, in the form of individual consultants to K10DOO; and (vi) technical assistance to support institutional strengthening in Public Enterprise Putevi Srbije (PEPS), through the development of a Reform Action Plan.

The first two components of the WB Project are the ones for which this Resettlement Policy Framework (RPF) has been prepared, and are applicable.

## **THE JUSTIFICATION FOR THE PREPARATION OF A RESETTLEMENT POLICY FRAMEWORK (RPF)**

The main designs for all the road sections on Corridor X that comprise the WB financed project, as part of the broader IFI parallel financed program, are not yet finalized: As a result, the exact amount of land required, the actual number of project affected persons, both with and without legal title (see the definition later in this RPF) and the extent of losses for each project affected individual/household were not known at the time of the preparation of this RPF.

In the absence of such information, it is only possible to prepare a generic policy framework that lays down the resettlement policies, procedures and institutional arrangements that must be followed for all expropriation in the project. As detailed engineering plans become available on a section by section basis, detailed section-specific Resettlement Action Plans (RAP) will be prepared on the basis of this Resettlement Policy Framework (RPF) and the applicable WB safeguards policies.

PEPS, on behalf of K10DOO, is currently collecting detailed information on the section of the E-80, Dimitrovgrad Bypass, in conjunction with the preparation of the main design on this section. As soon as sufficient information is collected on this sub-section, and after disclosure of this RPF, the legal department within PEPS, on behalf of K10DOO, will prepare a RAP for this sub-section in accordance with this RPF and disclose it in the manner consistent with that laid out in this document, before any construction starts.

This will be the first RAP and subsequent RAPs will be prepared, and disclosed, in exactly the same way, and consistent with the procedures detailed in this RPF, once the final design for each given section is ready and detailed information available (see section "Preparation of Individual Resettlement Action Plans").

These will be prepared by the legal department of PEPS, the public enterprise legally in charge of expropriation for the WB financed project, and the entire IFI financed Corridor X program, on behalf of K10DOO, or directly by K10DOO itself in future.

## **LAND ACQUISITION & RESETTLEMENT IMPACTS IN THE CORRIDOR X PROGRAM**

Along the E-75 route, a section of 74.03km between Grabovnica to Levosoje, will be the subject to this RPF (reflecting the intention of the Government that this RPF will apply to the entire IFI parallel financed program). About half of the missing section is a new alignment, the other half is a widening of the existing road. The construction of the motorway requires approximately 566 hectares (ha) of land in total for the entire IFI and HipERB financed program, out of which 452 ha is required for the section between Grabovnica and Levosoje, which encompasses the WB, and EIB financed sections. The expected amount of expropriation required on the World Bank financed sections on the E-75 is 50 hectares on the section between Grabovnica-Grdelica, and 130 hectares on the section between Vladicin Han- Donji Neradovac.

Along the E-80 route, the new motorway will extend for a total distance of 83.4 km between Prosek and Dimitrograd, within the IFI financed program. The WB financed

section is 8.67 km long around Dimitrovgrad, and the expected amount of land to be expropriated for this section is 50 hectares. The current estimates indicate that approximately a total of 1022 ha of land is affected along the entire corridor. The number of project affected households is not known at this stage. In general, the effect of the land acquisition/expropriation on project affected individuals and project affected households will vary according to the type of impact, and the type and amount of needed land, the location, etc. It is known that about 10 houses, 7 to 8 in the settlement of Jelasnica near Nis, and 2 or 3 in the settlement of Crvena Reka will require resettlement. In addition, at least one retailer of petrol and diesel will be affected.

## **THE INSTITUTIONAL FRAMEWORK FOR LAND ACQUISITION AND RESETTLEMENT**

The following comprise the legal, policy and regulatory basis for this Resettlement Policy Framework

- The Republic of Serbia Expropriation Law (passed in 1995 and enacted on January 1, 1996, amended in March 2001, amended on March 19, 2009);
- Law on Fundamentals of Property Relations (1980, applicable from 1<sup>st</sup> September 1980, amended 1990, and 1996);
- Administrative Code (Passed in 1996, amended June 26, 1997)
- Law of Planning and Construction (Passed on May 5, 2003, enacted on May 13, 2003);
- Law of Agricultural Land (Passed on July 19, 2006, enacted July 27, 2006); and
- The World Bank Policy on Involuntary Resettlement<sup>1</sup> (OP/BP 4.12).

### **The Republic of Serbia Expropriation Law (Amended March 19, 2009)**

#### ***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 land acquisition 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 World Bank 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:

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<sup>1</sup> Available for download from the following link:  
<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~isCURL:Y~menuPK:64701637~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>

- 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 comparable sales transactions in the area in the recent past;
- 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 projected 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;
- 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;

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<sup>2</sup> The 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. The Implementing Entity is defined as the legal entity that is implementing a particular scheme or project. In the case of the Corridor X Highway project/program, the Beneficiary of Expropriation’ is PEPS, on behalf of the implementing entity, the K10DOO, or in future the latter directly on its own account

- In addition, after the passage of the Law on Planning and Construction (Passed on May 5, 2003, enacted on May 13, 2003), it is a criminal offense to construct any structure without a building permit on either public or private land; and
- In the case of project affected persons, with formal title, who have 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 1<sup>st</sup> September 1980, amended 1990, and 1996) 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 agricultural and building land affected by a particular scheme, or project, is determined by the Tax Administration, in accordance with Article 42 of the Law on Expropriation. The value is assessed on the basis of 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 trees, 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.

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<sup>3</sup> Immovable property is defined, under the Law, as 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.

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 Cadastre Register, which provides details on the title holder, 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 Cadastre Office, Land Registry, or other public register, to prevent any transaction (Article 32) on the land to be expropriated.

Under the Law, 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, 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 Ministry of Finance) 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.

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.

***The Law of Expropriation also applies the following principles:***

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/have 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.

**The World Bank Policy on Involuntary Resettlement (OP/BP 4.12) and deviations from the Republic of Serbia Law on Expropriation Law**

In general, the institutional framework for expropriation in Serbia is strong and broadly compatible with the World Bank Policy on Involuntary Resettlement (hereafter OP/BP 4.12), but there are some significant exceptions.

In order to fully comply with OP/BP 4.12, the following steps will need to be taken by the Beneficiary of Expropriation (Currently PEPS, on behalf of K10DOO, or in future K10DOO directly):

- The Beneficiary of Expropriation shall establish an independent grievance commission, comprising representation from the Beneficiary of Expropriation, the implementing entity (K10DOO), and the municipalities encompassing project affected persons, together with adequate representation of project affected persons themselves;
- This body should be established by the Beneficiary of Expropriation at the same time as the section specific Resettlement Action Plan for any one section (expropriation proposal under the Republic of Serbia Law on Expropriation) is sent to any Municipality encompassing project affected persons;
- 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;
- 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;
- A social assessment (socio-economic study) of the project affected persons will be undertaken by the Beneficiary of Expropriation during the preparation of each individual section specific RAP (expropriation proposal under the Republic of Serbia Law on Expropriation).

Moreover, as noted earlier, the compensation under the Republic of Serbia Law on Expropriation is determined in accordance with the prevailing market price after taking into account the value of land, cost of structures & installations, crops, trees, wells, age of crops, vineyards, and the time needed to reproduce them. The effect of the project on the value of land will not be considered while evaluating the properties. This, although comparable to the replacement cost defined under OP/BP 4.12, does not specifically mention the cost of any registration and transfer taxes. Accordingly, under this RPF, any compensation of productive land and/or property, including businesses, should include

the registration cost in the Cadastre Office, or other relevant register, any administrative fees, and/or transfer taxes.

The Republic of Serbia Law on Expropriation is not clear about the status and rights for those project affected persons, who currently use public or private land, but do not hold formal title. However under OP/BP 4.12, their status is clear, project affected persons, without formal title, who have been using public land or private land are entitled to compensation 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 1<sup>st</sup> September 1980, amended 1990, and 1996) 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 declaration of public interest, reflecting current practice where property transactions are restricted under Article 32 of the Republic of Serbia Law on Expropriation.<sup>5</sup>

## **PRINCIPLES GUIDING INVOLUNTARY RESETTLEMENT**

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

- The relevant Republic of Serbia laws and OP/BP 4.12 will be followed. Where there is a conflict between the Republic of Serbia laws and WB policy, the provisions of this RPF and the relevant WB safeguard policy will apply;
- the property and inheritance rights of project affected persons will be respected;
- the public will be fully informed and processes will be transparent;
- Where it can be identified, comparable agricultural land, of the same type and quality, or appropriate value, in the same area or vicinity (as consistent with Article 15 of the Republic of Serbia Law on Expropriation) will be offered to the project affected persons with formal title, whose agricultural land is expropriated;
- 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;
- In case of disagreement on the comparability of the land offered, or assessed fair value for immovable property, the project affected person can approach the

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<sup>5</sup> The declaration of public interest was made in the case of the E-75 in the Official Gazette of the Republic of Serbia Number 78 in 2008, and in the case of the E-80 in the Official Gazette of the Republic of Serbia Number 84 in 2008.

- independent grievance commission who can mediate and, if necessary, hire an accredited expert, at the expense of the Beneficiary of Expropriation to review and determine the comparability of the land offered, 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;
  - Where comparable agricultural land cannot be identified, the project affected person with legal title is offered the assessed fair value for the land, as determined by the Tax Administration. If the project affected person wishes to challenge the assessment of 'fair value' they can resort to the independent grievance commission initially, and subsequently to the judicial process;
  - Where the project affected person without legal title is offered the assessed fair value for any investment made on public land in the cost of structures and installations<sup>6</sup> (under the Law on Fundamentals of Property Relations (1980, applicable from 1<sup>st</sup> September 1980, amended 1990, and 1996) 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;
  - 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 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, who 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 so desires;

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<sup>6</sup> Replacement cost which is defined as the market price after taking into account the value of land, cost of structures & installations, crops, trees, wells, age of crops, vineyards, and the time needed to reproduce them, plus the cost of any registration and transfer taxes. In the case of a house, the compensation should be as such to enable the owner to replace the house with a similar house. This also includes the transaction cost. Speculation based on the construction of the road will not be a factor in valuation. In other words, the valuation is based on the fair market value before the announcement of the scheme.

- In cases where there are persons working on the affected land or businesses, as determined by the social assessment (socio-economic study), where the project affected person does not have formal title to the land (e.g. wage earners), then compensation should be provided to these project affected persons to ensure no loss, the extent as determined appropriate by the social assessment (socio-economic study);
- 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);
- In exceptional cases, 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 declaration of public interest, reflecting the introduced restriction on property transactions under current practice under the Republic of Serbia Law on Expropriation;<sup>7</sup>
- 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; and
- all activities and procedures will have to be formally documented.

**All project affected persons (private and public, individual and businesses) entitled to be compensated for land acquired, losses, structures or damages must be paid in full at the time of the acquisition of the land, or their grievance registered, before any works or construction activities are allowed to commence on the land plots in question.**

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, and which must also be satisfactory to the World Bank, to either the account of the relevant local authorities, or to a court account, or arrange a Bank Guarantee in the name of the project affected person with a

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<sup>7</sup> The declaration of public interest was made in the case of the E-75 in the Official Gazette of the Republic of Serbia Number 78 in 2008, and in the case of the E-80 in the Official Gazette of the Republic of Serbia Number 84 in 2008.

commercial bank, while the case is pending, before starting any construction activities on the affected land plots.

### ***Project Affected Persons***

Project affected persons are defined to include the following categories:

- Project affected persons, with formal title, who lose all or part of their land;
- Project affected persons, with formal title, who have immovable property on the land to be expropriated;
- Project affected persons with formal title over businesses that are affected by the loss of all or part of the land on which 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); and
- Project affected persons without formal title of ownership or use but who have established usage of public land by investing in immovable objects, crops, woods, trees, fruit bearing trees, vineyards, the age of crops, and the time needed to reproduce them.

**Table 1: Entitlement Matrix**

<b>Affected Categories</b>	<b>Entitlement</b>
Loss of entire land holding	(i) 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; or (ii) monetary compensation based on the assessed fair value.
Partial loss of land	(i) 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; or (ii) monetary compensation based on the assessed fair value.
Unviable, redundant parcels of land/structures	If a remaining parcel of land after expropriation is not economically viable, it will be acquired and compensated if the project affected person so desires.
Structures and installations on the land (barns, shacks, fences, etc.)	The replacement cost for any investment made, and the value of time invested in construction.
Crops	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.).
Fruit bearing plants, vineyards, and orchards	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.
Young vineyards or orchards not yet fruit-bearing	The replacement cost for any investment made for raising a replacement vineyard or orchards, including the value of time needed to reproduce replacement vineyard or orchards, and compensation for lost yields for each year from the year of expropriation.
Nursery	The replacement cost for any investment made on planting material (nursery plants and other reproduction material) not utilized.
Land needed on temporary basis	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	Full compensation based on the replacement cost in a similar/comparable area plus moving, transfer/administrative taxes, and transition allowance.
Lessees of Public or State owned properties	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	Compensated for lost income earned from the land, as determined in the social assessment, and the replacement cost for any investment made on the land.
Illegal users of public and private land	Compensated for the replacement cost of any investment made on the land.
Persons with non-agricultural business	Full relocation cost of businesses affected, including the inventory, and the replacement cost for any investment.
Vulnerable groups (affected households with many dependents, household with unemployed head, households with disabled, poor households)	For this group, they will be given additional financial assistance to ensure that they will be no worse off after the project and can maintain and restore their livelihoods.

### ***Preparation of individual section specific Resettlement Action Plans***

When the scheme is declared to be ‘of public interest,’ a concrete expropriation proposal by the Beneficiary of Expropriation<sup>8</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 (PEPS), 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 section specific RAP. 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 RAPs.

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 Cadastre Register, which provides details on the title holder, 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 Cadastre Office, or other public register, to prevent any transaction (Article 32) on the land to be expropriated.

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

### ***Expropriation and organizational arrangements and Consultation***

The organizations and parties involved in the process of expropriation and resettlement are the Ministries of Finance, Agriculture, Taxation Administration, PEPS, the Beneficiary of Expropriation on behalf of K10DOO, and K10DOO, the implementing entity, municipalities, expert assessors, project affected persons, the independent grievance commission, defined earlier, and the court.

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<sup>8</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 on behalf of the implementing entity for a particular scheme or project. In the case of the Corridor X Highway project/program, the Beneficiary of Expropriation’ is the Public Enterprise Roads of Serbia (PEPS), on behalf of the implementing entity, the Corridor X Limited Liability Company (K10DOO), or in future the latter directly on its own account.

### ***Organizational Arrangement***

When the scheme is declared to be ‘of public interest’, and approved by the Government, a concrete expropriation proposal by the Beneficiary of Expropriation<sup>9</sup> the legal department within the PEPS, the Beneficiary of Expropriation on behalf of K10DOO, or in future K10DOO directly, is prepared and then submitted to the relevant municipality encompassing the project affected persons.

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 final design and cadastre 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.

### ***Processes and Consultation***

- 1) The affected persons are notified through the mass media of plans to the scheme; and
- 2) After public announcement, the relevant municipalities, through the LGPD starts the process as it is described below.

***The role of the municipality:*** The respective local LGPD, where properties are being expropriated, administers the expropriation process at the local level in conjunction with the Beneficiary of Expropriation. In the first step, the municipality reviews the RAP (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. 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 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, then the municipality and the project affected persons come to a decision on expropriation. However, if the project affected persons

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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 Ministry of Finance, and the decision has to wait till the Ministry of Finance 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 RAP 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.

***The 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 Ministry of Agriculture, 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. 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 is 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.

***The 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, with legal title, 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, with legal title, 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 cadastre 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.

**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, court. The ruling of the court determines who pays the cost of litigation.

**Monitoring.** The Beneficiary of Expropriation PEPS, on behalf of the implementation entity (K10DOO), 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 section. The WB also will monitor the implementation of RAPs prepared under the Project, for those sections financed in whole or in part from the World Bank loan, during the regular supervision missions.

**Cost Estimates and Budget.** Only rough estimates of the land requirements for the two components are available at the time of the preparation of this RPF, and it is not possible to estimate the exact cost of land acquisition and resettlement. However, the Beneficiary of Expropriation, PEPS, through its legal department, will be preparing RAPs including detailed cost estimates for each section when the main design becomes available.

#### ***Documentation Submitted to the World Bank for Review***

Prior to obtaining final approval for each of the RAPs with respect to the relevant land plots, the Beneficiary of Expropriation, PEPS on behalf of the implementing entity (K10DOO) will submit the plan to the World Bank for review and approval, to ensure full compliance with the Bank's Operational Policy on Involuntary Resettlement (OP/BP4.12). The Bank will have up to 30 days to review and request modifications prior to issuing a formal no-objection.

**Disclosure.** This RPF in draft form was officially disclosed in both English and Serbian on the website of the Beneficiary of Expropriation on April 2, 2009. The final version was disclosed on May 20, 2009. In addition, hard copies of the RPF, both in English and Serbian, were posted in the relevant organizations, as well as affected municipalities. The draft was also disclosed on the WB Infoshop on April 2, 2009. The final version was disclosed on May 20, 2009. As individual RAPs are prepared, they will be disclosed in the same manner.