

**The Ministry of Transport and Maritime Affairs of
MONTENEGRO**

TRAFFIC DIRECTORATE

ROAD REHABILITATION AND CITY BYPASSES

(2011-0626)

PROJECT

Resettlement Policy Framework

RPF

Revised document

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Acronyms and Abbreviations

RPF	Resettlement Policy Framework
RAP	Resettlement Action Plan
EIB	European Investment Bank
MTMA	Ministry of Transport and Maritime Affairs of Montenegro
TD	Traffic Directorate
PIU	Project Implementation Unit
The Project	Road Rehabilitation and City Bypasses Project

1 Introduction

The Road Rehabilitation and City Bypasses Project (the Project) is a multiyear project of the Montenegro Ministry of Transport and Maritime Affairs (MTMA) and its Traffic Directorate (TD), which consists of the rehabilitation and/or construction of 7 selected sections of the national road network in Montenegro, with a total length of approx. 36 km. The Project is being financed through a loan provided by the European Investment Bank (EIB).

The Project requires acquisition of publicly and privately owned land (estimated 50 Ha), which may cause limited economic displacement, and even less likely, physical displacement. Nevertheless, in accordance with EIB's Environmental and Social Handbook (2013), particularly Standard No. 6 on Involuntary Resettlement, appropriate land acquisition planning has to be carried out.

This document is the Project Resettlement Policy Framework (RPF) which was originally developed by the TD Project Implementation Unit (PIU) in 2014 and has now been updated, with assistance from an external consultant. It describes the policies, procedures and processes that are being implemented by the TD to avoid, and where avoidance is not possible, mitigate any negative impacts in relation to the Project land acquisition.

The RPF was initially developed for the Project because the details of land acquisition for all individual sections were unknown at the time when the Project was being considered for financing. In accordance with EIB's requirements, detailed Resettlement Action Plans (RAPs) were to be developed for individual sections, as the land acquisition data became available.

To date, a RAP has been developed and implemented for the Bypass Nikšić II phase section, which has already been constructed. A review of land acquisition carried out for this section, as well as for three other sections where land acquisition has been completed, was carried out in March 2016. For the remaining three sections where land is yet to be acquired, the TD PIU will develop a RAP with support from the consultant, by June 2016.

2 Description of the Project and Impacts

2.1 The Project and Impacts to Date

The main objective of the Project is to improve the transport conditions, including safety, on the main corridors in Montenegro, through the rehabilitation and upgrading of five designated sections, as well as the construction of two city bypasses.

These sections are located throughout the whole territory of Montenegro (see Figure 2.1 Map of Project locations in Montenegro).

An overview of information on each individual road section is provided in Table 2.1. The expropriation studies (elaborates) for the section bypass Rožaje and for the climbing lane

Lepenac were not available at the time of updating the RPF and best estimates of how much land will be affected were made, based on similar sections which have been completed.

Table 2.1 Overview of seven Project sections, their length, planned works, current status and area of land needed / acquired

No	Section	Length	Completed / planned works	Current status	Area of permanently acquired /needed land
1.	Bypass Nikšić II phase	10 km	construction	Construction completed	21.3 Ha (16.8 Ha privately owned)
2.	Bypass Rožaje	2,5 km	construction	Outstanding (design stage)	Estimated 6 Ha (3.5 Ha privately owned)
3.	Climbing lane Kuside	5 km	rehabilitation	Construction completed	2.7 Ha (0.9 Ha privately owned)
4.	Climbing lane Slijepač most	2.2 km	rehabilitation	Construction completed	5.1 Ha (0.3 Ha privately owned)
5.	Climbing lane Lepenac	2.0 km	rehabilitation	Outstanding (design stage)	Estimated 5 Ha (0.4 Ha privately owned)
6.	Connection of two boulevards in Budva	700 m	rehabilitation	Under Construction	2.4 Ha (0.5 Ha privately owned)
7.	Reconstruction of the road Ulcinj - Krute	13.5 km	rehabilitation	Outstanding (expropriation initiated, tender for construction in process)	6.1 Ha (all privately owned)
	Total	35.9 km			Estimated 50 Ha (28.5 Ha privately owned)

To date, all land acquisition was carried out through the initiation of expropriation, with public interest being granted by the Government of Montenegro and with the TD as the Beneficiary of Expropriation. Only in the case of the Budva boulevard, as this is a road of a local (as opposed to national) character and importance, public interest was granted by the Budva Municipal Assembly, with the Municipality as the Beneficiary of Expropriation (represented by the Secretariat for Property Protection).

The Project in total requires permanent acquisition of an estimated 50 Ha of land, of which 57% (estimated 28.5 Ha) is privately owned. To date, acquisition of 31.5 Ha (18.5 Ha privately owned land belonging to 300 individuals and 6 legal entities) for four sections has already been completed, while an additional 17.1 Ha (10 Ha privately owned land) are estimated as needed for the remaining three sections.

The amount of land being acquired for individual sections is highest for the two bypasses which have been / are being constructed (56 % of the total land acquired and needed), while it is much lower for sections which are being rehabilitated, i.e. where existing roads are being upgraded.

When analysed at the level of an individual land plot, the part of the plot which is being acquired is extremely small, particularly for the rehabilitation of roads. For example, for the rehabilitation of the section climbing lane Kuside, the total area of all land plots which were partially affected was 101 Ha, of which only 2.7 Ha (2.7%) were acquired. Again, for the one section involving the construction of a new road (Nikšić bypass), this percentage is higher than for rehabilitated sections, yet still very low overall. The total area of all land plots which were partially affected was 550 Ha, of which only 21.3 Ha (3.82%) were acquired.

Apart from the fact that the amount of land being acquired is very low, most of that land can be characterised as unused land, of a very low productive potential. The Nikšić Bypass was constructed in a completely uninhabited area on land, which long ago was used for pasture, however is no longer used for this or any other purpose. As is usual for the construction of roads, some land plots were severed, however as required under Montenegrin legislation (and EIB standards), the affected owners could request that the remaining parts of their land plots are also acquired. As this was land that had no productive value, such requests were granted in cases when the remaining part of a land plot was very small. In fact, the land which can now be accessed directly from the road, which was not the case before, may rise in value if it is used for some commercial purposes (for example, for construction of warehouses, car repair or similar shops, etc.)

The two climbing lanes and the boulevard expansion in Budva required very little land take mainly on the edges of land plots; in total 10 Ha, of which less than 2 Ha privately owned land.

The Project has not caused any physical or economic displacement, so far. Informal users of land and any particularly vulnerable individuals or groups have not been identified among the affected population.

Figure 2.1 Map of Project locations in Montenegro



2.2 Future Potential Impacts

During the design of all the road sections, land acquisition requirements have been a key consideration, with a view of minimising the area of privately owned land that will have to be acquired and avoiding structures, to further avoid physical or economic displacement.

A list of potential losses and impacts for the three outstanding sections is provided in this section, while a precise list will be developed based on the results of the socio economic survey and included in the last project RAP.

In accordance with to the outcomes of land acquisition carried out so far and based on preliminary data which is available for the remaining three road sections, permanent land acquisition for the project **prior to construction** will result in the loss of land and potential limited loss of non-residential structures (e.g. fences) and annual / perennial crops and trees.

Most of the land which remains to be acquired is needed for the reconstruction of the road Ulcinj – Krute (6.1 Ha, almost all privately owned), affecting only edges of plots along the existing road which will be upgraded. Construction of the section Bypass Rožaje is expected to affected a similar amount of land (estimated 6 Ha, of which 3.5 Ha privately owned), mainly pastures and forest land. The reconstruction of the Climbing lane Lepenac is expected to require acquisition of slightly less land (estimated 5 Ha, of which only 0.4 Ha privately owned), affecting also edges of plots, where the road will cut into the hillside.

The construction of the Bypass Rožaje has some potential to cause the creation of ‘orphan land’, defined as a (usually small) part of land that remains after land acquisition or land which is split by the construction of the road into two or more economically unviable plots.

The loss of sources of income and/or livelihoods caused by the loss of land are highly unlikely, as is the loss of residential or other significant structures.

During construction, some temporary loss of land is possible for private landowners, although also highly unlikely, as usually public land is used by construction contractors for temporary storage of equipment, materials, etc. Access to properties along the road footprint could also be interrupted or made more difficult, if appropriate measures for mitigation are not undertaken by construction contractors.

Upon completion of construction, **during operation**, no further negative impacts are expected. One potential positive impact however is that land plots which gain access to the newly constructed road, for the two bypasses (Nikšić phase II and Rožaje), may increase in value, as compared to the pre-project situation.

3 Legal Framework

3.1 Legislation of Montenegro

Issues related to provision of compensation for land and assets (or restrictions on land use) acquired in the public interest, i.e. which cannot be refused by affected people/entities, and can lead to physical and/or economic displacement are regulated mainly by the ***Expropriation Law (Official Gazette of Montenegro 55/00, 12/02, 28/06, 21/08)***.

Public interest is established either through a separate law or by a decision of the Government of Montenegro. As relevant to the Budva boulevard section in this Project, according to the ***Law on Local Self Government (Official Gazette of the Republic of Montenegro 42/03, 28/04, 75/05, 13/06 and the Official Gazette of Montenegro 88/09, 03/10, 38/12 and 10/14)***, public interest for the expropriation of properties for local needs can be established by a decision of the Municipal Assembly.

The proposal for determining public interest, which must include information on properties that are to be affected and their registered owners, is submitted to the Government of Montenegro (or the Municipal Assembly) by the Beneficiary of Expropriation, through the responsible Administrative Authority (the Real Estate Directorate). The Beneficiary of Expropriation can be the state, municipality, state funds and public enterprises, unless otherwise determined by the law. The Government of Montenegro (or the Municipal Assembly) has to decide within 60 days of receiving the proposal. An administrative dispute can be initiated against the decision on public interest of the Government of Montenegro with the Supreme Court of Montenegro.

Upon establishing public interest, the proposal for expropriation is submitted by the Beneficiary of Expropriation, to the responsible Administrative Authority in charge of recording property rights, in the municipality where the affected property is located (the Real Estate Directorate).

The proposal for expropriation is submitted together with a set of accompanying documents, including proof that funds / replacement properties needed for compensation are deposited in a special account of the Ministry of Finance.

Owners of affected properties are individually invited to a hearing and notified about the submission of the expropriation proposal. If the documentation is in order, a decision on expropriation (first degree) is passed by the Real Estate Directorate. The affected owners can submit an administrative appeal to the Ministry of Finance, which decides in the second degree, after which the decision becomes final. If there is no further (judicial) appeal, the expropriation decision also becomes legally binding. However, the affected owner can choose to submit a judicial appeal to the relevant administrative court, after whose ruling the decision on expropriation becomes legally binding.

When the decision on expropriation becomes legally binding, another hearing must to be held by the Real Estate Directorate to discuss and determine the level of compensation for each affected owner. In case an agreement on the level of compensation is not reached within two months of the decision on expropriation becoming legally binding, the case is referred to the courts to decide. The Beneficiary of Expropriation proceeds with the payment of compensation or provision of replacement properties, after the signing of a compensation agreement or the decision on compensation becoming legally binding.

Some of the relevant key characteristics of the Expropriation Law are that it:

- Focuses on providing compensation for any affected properties and assets, rather than on addressing further impacts of land acquisition / restrictions on land use, i.e. physical and economic displacement. The law indirectly covers physical and economic displacement, but only for affected people who have formal legal rights or rights / claims that are recognisable under national law.
- Encourages amicable agreements on expropriation and compensation.
- Requires the provision of fair compensation which is determined in accordance with the prevailing market price of a same type of property/asset, in the same or similar area of the municipality, increased by lost profit during the period of resettlement. If the market price in the same or similar area of the municipality cannot be determined, the price will be obtained from a municipality which has the same or similar per capita income.
- Does not specify whether structures built informally (without a valid permit) or informal incomes and livelihoods are to be compensated, however by virtue of law it is implied that the owners of these structures and holders of such incomes / livelihoods would not be entitled to compensation.
- Foresees provision of increased cash compensation for persons whose sources of livelihoods are adversely affected and to cover lost profit during the period of resettlement.
- Allows affected people to request compensation for 'orphan' land.
- Enables compensation for land and residential and business structures to be provided in kind, at the request of the affected person.
- Allows for the Beneficiary of Expropriation to acquire the right of accessing the land/property, under certain circumstances, even if compensation has not been executed. The assessed compensation amount however has to be deposited in a special account, which is also important for absentee owners (persons whose whereabouts have not been identified and could not be contacted during the expropriation procedure, but who can claim their right at a later date).
- Provides administrative and judicial remedies for disputing expropriation and the amount of compensation

Further solutions for addressing physical and economic displacement can be sought through cooperation with various government and non-government service providers. For example, municipal Centres for Social Welfare can provide some assistance, particularly to vulnerable

people, under **the Law on Social Welfare and Child Protection (Official Gazette of Montenegro 27/13, 01/15)**. This law enables provision of social welfare payments and services to vulnerable Montenegrin residents, as defined by the law. Assistance from social workers can be used to address the needs of Roma, persons with disabilities, single headed households, households with low incomes, etc. Social apartments are provided under the **Law on Social Housing (Official Gazette of Montenegro 35/13)**, which foresees the provision of social housing to households who do not have an apartment or other residential structure or whose residential structure is in poor condition and who are unable to secure an adequate residential structure with their income.

In relation to livelihood restoration, assistance for employment and training could be provided in partnership with the Montenegrin Employment Bureau. This agency implements a variety of employment programmes, i.e. loans for self-employment, subsidised employment, education for starting up businesses, internships, agricultural production, assistance for employment in tourism, construction, employment of vulnerable persons, etc. as well as public works programmes. Adult education is provided under **the Law on Adult Education (Official Gazette of Montenegro 20/11)**, based on programmes developed by the Centre for Vocational Education, by a variety of service providers, including public schools, centres and workers' universities.

Legal assistance can be provided to vulnerable people under the **Law on Free Legal Assistance (Official Gazette of Montenegro 20/11)**, through court Departments for Free Legal Assistance, by certified lawyers.

Apart from government service providers, there is a range of different organisations i.e. non-government organisations (local or international) or private companies which could be potential partners in addressing physical and / or economic displacement on specific projects.

3.2 EIB Requirements

As the Project is being financed by the EIB, land acquisition has to be planned and implemented in compliance with the EIB Environmental and Social Handbook (2013), particularly Standard No. 6 on Involuntary Resettlement.

The EIB standards and principles, applicable for this project, are:

- to avoid or, at least minimise permanent or temporary physical or economic displacement caused by project related land acquisition, whenever feasible, by exploring alternative project designs; where displacement is unavoidable, appropriate compensation, resettlement and livelihood restoration action plans should be developed and implemented;
- to mitigate adverse social and economic impacts from land acquisition or restrictions on

all affected persons' use of and access to land, physical assets or natural resources regardless of the character of existing land tenure arrangements (including title holders and those without title) by:

- (i) providing compensation for loss of assets at full replacement cost¹, prior to taking possession of acquired assets; and
- (ii) ensuring that compensation, resettlement and livelihood restoration activities are planned and implemented with appropriate disclosure of information, consultation, and the informed participation of those affected;
- to improve or, at a minimum, restore the livelihoods, income earning capacity and standards of living of all displaced persons, including those who have no legally recognisable rights or claims to the land (present in the project affected area at the time of the cut off date), to levels existing prior to the project;
- to make special provisions for assisting disadvantaged or vulnerable individuals or groups (present in the project affected area at the time of the cut off date) that may be more adversely affected by displacement than others and who may be limited in their ability to claim or take advantage of livelihood assistance and related development benefits;
- to establish a grievance mechanism to receive and address in a timely fashion specific concerns about compensation and relocation that are raised by displaced persons, including a recourse mechanism designed to resolve disputes in an impartial manner.
- to monitor the land acquisition, resettlement and livelihood restoration process.

The above list is only a summary of the main requirements and is qualified by reference to the full text of the applicable EIB policy - Environmental and Social Handbook (http://www.eib.org/attachments/strategies/environmental_and_social_practices_handbook_en.pdf).

3.3 Gaps Between Montenegrin Legislation and EIB Requirements

The main gaps between national legislation of Montenegro and EIB's Standard No. 06, relevant for this project, are as follows:

- Persons who have no recognisable legal right or claim to the land they occupy are not recorded by a census; consequently, there is no cut off date for determining eligibility for compensation and assistance for this affected group;
- Persons who have no recognisable legal right or claim to the land they occupy are not entitled to compensation / assistance under national laws, including resettlement to adequate housing and livelihood restoration assistance;

¹ This is usually calculated as the market value of the assets plus the transaction costs related to restoring such assets.

- In cases of economic displacement, affected people, including those with informal incomes/livelihoods, are not entitled to livelihood restoration assistance, however this can be provided in the framework of other national laws;
- Informal residential and business structures are not subject to compensation;
- The Beneficiary of Expropriation can acquire the right of accessing land/property prior to payment of compensation, particularly in cases when urgent access is granted by the Real Estate Directorate;
- Development of a Resettlement/Livelihood Restoration Framework and Plan, based on the results of a socio economic baseline assessment, is not requested by national legislation; consequently, there is no requirement to publicly disclose these documents;
- Consultations with affected people regarding proposed compensation principles and processes are not required by national legislation;
- Provision of special support to vulnerable groups is not foreseen by the Expropriation Law, however it can be provided in the framework of other national laws;
- The establishment of an independent and free project grievance mechanism to address land acquisition complaints and grievances is not foreseen by national legislation;
- There are no requirements for monitoring and evaluation of the resettlement / livelihood restoration process and outcomes.

4 Key Compensation and Assistance Principles

The key principles committed upon by the TD in respect of compensation and resettlement, associated with the Project are:

- Alternative project designs shall be considered to avoid or at least minimise physical and economic displacement, through, for example, micro alignment of the road footprints;
- A socio economic survey of affected people/households will be implemented, to assess all individual impacts, provide baseline information and design appropriate resettlement / livelihood restoration measures which will be described in the RAP;
- The socio economic survey will serve as a census of persons who have no recognisable legal right or claim to the land they occupy; the date of the census shall be the cut off date for eligibility for this category;
- Consultations will be organised and information provided to affected people throughout the development and implementation of RAPs;
- Compensation for all affected assets will be provided at full replacement cost;
- Specific assistance will be provided to vulnerable groups identified through the socio economic survey;
- All compensation and livelihood restoration assistance will be provided equally to men and women;

- Compensation will be provided prior to taking possession of acquired assets where possible, and as a rule prior to the occurrence of physical and economic displacement;
- A grievance mechanism will be implemented through which all affected people can submit their complaints and grievances in relation to compensation and resettlement and expect a timely answer;
- Construction related activities will be organised in a way to avoid economic displacement, by ensuring all properties have access during and after construction works and by implementing measures for mitigating construction related nuisances (noise, dust);
- Monitoring of all compensation, resettlement and livelihood restoration activities will be regularly carried out.

5 Implementation of a Census, Assets Inventory and Socio Economic Survey

Once the relevant Final Design of a project section has been completed, TD will outsource the development of an Expropriation Study, which will contain a final list of all affected land plots, registered assets (i.e. structures) and their owners, as recorded in the Cadastre. This list will comprise a part of the census document, based on which eligibility will be determined. The only two expropriation studies which remain to be prepared at the time of updating this RPF are for sections bypass Rožaje and for the climbing lane Lepenac.

In the expropriation procedure, the Real Estate Directorate will invite owners, users and all other third parties who have a claim to the affected land or some other interest in it and issues of eligibility for compensation will be resolved if possible. For cases which cannot be resolved before the Real Estate Directorate, affected parties will turn to the courts.

Recording of persons who have no recognisable legal right or claim to the land they occupy in the project affected area, will be done through the implementation of the census/socio economic survey, which will be announced in advance. The date of this activity will be the cut off date for eligibility, meaning that persons who occupy land in the affected area after this date, will not be eligible for compensation and/or assistance.

After the Expropriation Study has been prepared, an assets inventory and appraisal will be completed by the Commission for Value Assessment of the Real estate Directorate. The assets inventory will provide basic information on the affected land plot (land use, land category) and all assets located on it (crops, trees, orchards, structures, businesses, etc.), both ones that are registered in the Cadastre and those that are not. The appraisal will help calculate the value of all affected assets.

In parallel to the assets inventory and appraisal, a socio economic survey will be carried out by TD PIU members, covering all or a sample of affected people / households, as relevant to

each section. Participation in the socio economic survey is a voluntary exercise and will only be conducted with agreement of project affected people. All collected information will be treated as confidential. This survey will serve as a tool for establishing a baseline for affected individuals / households that will assist in identifying the significance of impacts and developing and implementing effective and suitable ways to resettle people and restore or improve their livelihoods.

The following information will be recorded through socio economic surveys, for each affected land plot:

- the number of the affected land plot, so that it can be connected to the appropriate appraisal report
- the name of the owner/user/resident and his/her status
- the contact details of the affected owner/user/resident

The survey will also include questions on the basic household information (names, ages, sex, educational status of household members and any vulnerabilities), as well as questions in relation to existing standard of living and sources of income/livelihoods, with preferred choices for compensation and assistance.

6 Eligibility

All individuals / households occupying project affected land, recorded in **the census** (owners and users, both formal and informal) are entitled to compensation and/or livelihood restoration or other assistance as outlined in the Entitlements Matrix in section 7 Entitlements Matrix.

Persons with formal legal rights and with rights which are recognisable under national law (owners and formal users)

Persons with formal legal rights are recorded in the Cadastre and this information will be updated in accordance with national legislation when the expropriation process is initiated by the Beneficiary of Expropriation. Persons with a claim that is recognised or recognisable under national legislation are also invited to a hearing and the Cadastre is appropriately updated. In cases of disputes, affected people can turn to the courts for their resolution, which has to be processed prior to the passing of the expropriation decision. Examples of persons with a claim that is recognised or recognisable under national legislation include heirs of deceased owners, persons who purchased properties with a valid sale purchase contract, however did not transfer property rights to their name in the Cadastre, formal users of land and assets (lessees) and similar.

Persons with no formal legal rights to the land they occupy, at the time of the census (informal users)

Persons with no legal rights or claims to the land they occupy (informal users) will be recorded in the census at the time when the socio economic survey is carried out. The date of the completion of the census will be the cut off date, meaning that any individuals / households that use/occupy Project affected land (without legal rights or claims) after this date will not be entitled to compensation and/or livelihood restoration assistance. Examples of persons with no legal rights or claims include persons who have constructed houses on public land or those who are farming public land or even private land, without the knowledge and/or approval of the owner. Such persons will not be entitled to compensation for land, as they do not own it, however they will be entitled to compensation of assets which they do own for example, the construction value of structures, crops, trees, etc.

Vulnerable groups

Some individuals or groups are considered more vulnerable than the majority of the affected population and, if affected by the Project, will require the implementation of special livelihood restoration and/or assistance measures. Such groups might include:

- informal users of affected land who have no sources of income or assets of their own
- owners of informal residential structures (built without construction permits), with no other property or place of residence
- persons who depend on the affected land for incomes/livelihoods and it is the only land they own or use
- elderly single headed households, single parent households, households with multiple members, etc. who have to be physically re-located
- persons who will be affected by physical and/or economic displacement, whose socio economic status is low, for example beneficiaries of social welfare
- illiterate persons who may have difficulties accessing information about the Project and land acquisition or understanding contracts and other important documents, etc.

Vulnerability will be assessed based on the results of socio economic survey and defined more precisely in the RAP.

Other project affected people

For this particular Project, in case of relocation or economic displacement of any business, it is possible for employees of such a business to also be negatively affected, either temporarily or permanently. As required by international best practice and EIB standards, this category is also entitled to compensation and assistance and has been included in the Entitlements Matrix (see Table 7.1 Project Entitlements Matrix Table 7.1).

7 Entitlements Matrix

Table 7.1 Project Entitlements Matrix

CATEGORY OF AFFECTED PERSON	TYPE OF LOSS / IMPACT	ENTITLEMENTS
Owner	Permanent loss of (or access to) land Loss of annual / perennial crops and trees	Cash compensation for land at full replacement cost. Cash compensation for lost annual / perennial crops / and trees at full replacement cost
	Temporary loss of (or access to) land during construction Loss of annual / perennial crops and trees	Cash compensation for the right to use the land for the land use period, at full replacement cost (market rental price). Reinstatement of land after use Cash compensation for lost annual / perennial crops / and trees at full replacement cost
	Permanent loss of residential structures (physical displacement), formal and informal	Cash compensation for the residential structure at full replacement cost Resettlement assistance, including moving allowance or assistance to move
	Permanent loss of non-residential structures (e.g. fences, business facilities, workshops) and infrastructure (e.g. irrigation structures)	Cash compensation at full replacement cost Moving allowance for movable assets or assistance to move them
	Temporary or permanent loss of business income and/or sources of livelihood (formal and informal) associated with any of the above losses (economic displacement)	Cash compensation for lost net income during the period of transition (until the re-establishment of business/economic activities) Livelihood restoration assistance
	Orphan land (a part of a plot of land that is to be left over after expropriation, for which the owner has no economic interest in continuing to use)	If a request of the affected owner of land has been made in accordance with the Expropriation Law (Article 24) and has been declared as being justified based on the expert appraisal report: Cash compensation for orphan land at full replacement cost
Formal user (i.e. lessee)	Permanent loss of (or access to) publicly owned land	Provision of the use of other corresponding publicly owned land for lease, under the same contractual conditions OR Amendment of lease contract to reflect the loss of the area of land to be acquired for the Project

CATEGORY OF AFFECTED PERSON	TYPE OF LOSS / IMPACT	ENTITLEMENTS
	Permanent loss of (or access to) privately owned land	Information about the permanent acquisition of the land at least three months in advance of land entry, to enable the lessee to find other land for lease, if he/she decides to terminate the lease contract OR Amendment of lease contract to reflect the loss of the area of land to be acquired for the Project
	Loss of access to residential structures (physical displacement)	Information about the acquisition of the residential structure at least three months in advance of land entry, to enable the lessee to find other accommodation for lease. Resettlement assistance, including moving allowance or assistance to move
	Permanent loss of non-residential structures (e.g. fences, business facilities, workshops) and infrastructure (e.g. irrigation structures)	Cash compensation at full replacement cost Moving allowance for movable assets or assistance to move them
	Temporary or permanent loss of business income and/or sources of livelihood (formal and informal) associated with any of the above losses (economic displacement)	Cash compensation for lost net income during the period of transition (until the re-establishment of business/economic activities) Livelihood restoration assistance
Informal user	Permanent loss of access to land Loss of annual / perennial crops and trees	Access to replacement land for use Cash compensation for lost annual / perennial crops / and trees at full replacement cost
	Loss of access to residential structures (physical displacement)	If the user has no other place of residence: A choice of options for adequate housing with security of tenure (e.g. social housing) Resettlement assistance, including moving allowance or assistance to move
	Temporary or permanent loss of business income and/or sources of livelihood (formal and informal) associated with any of the above losses (economic displacement)	Cash compensation for lost net income during the period of transition (until the re-establishment of business/economic activities) Livelihood restoration assistance

CATEGORY OF AFFECTED PERSON	TYPE OF LOSS / IMPACT	ENTITLEMENTS
Vulnerable individuals / households	Any losses / impacts on vulnerable groups, associated with land acquisition for the Project, identified during the development of the RAP(s)	Special measures for effective participation, compensation, resettlement and livelihood restoration in accordance with their needs, to be defined in the RAPs.
Employees of affected businesses	Permanent or temporary loss of employment, as a result of affected businesses closing or re-locating	Transitional allowance (monthly salary) during the period of re-location of business In the case of business closing, transitional allowance (3 months wages) and livelihood restoration assistance

8 Entitlements

Depending on the type impact and the category they belong to (owner, formal and informal user), affected people will be entitled to cash compensation and / or resettlement / livelihood restoration assistance.

It should be noted that under national legislation, replacement land can also be provided upon request of the affected person. However, as the amount of land that is being acquired from any one individual / household is small and as the affected land is mainly of a low, non productive quality, it is assumed that this option will not be widely used by affected people. Nevertheless, it is available and can be provided, as required under national legislation and the EIB policy.

The following section provides more details on each type of entitlement.

8.1 Cash Compensation

Cash compensation for affected land and assets

Appraisal of properties will be conducted by certified appraisers from the Real Estate Directorate - the Commission for Value Assessment. Both formal (registered) and informal assets will be appraised.

Cash compensation will be provided at full replacement cost, calculated as the market value of assets plus any transaction costs associated with restoring such assets (e.g. transfer taxes, registration costs). The market value of assets (land and structures) will be defined based on recent market transactions in the affected area (or in a relevant nearby area).

Replacement cost of land will correspond to the market value of land with similar characteristics, in the vicinity of the affected land, plus any transaction costs. The appraisal of land will take into account the quality and productivity of land. Appraisal of plants and trees will take into account various important features, such as their age or the resources and amount of time that would be needed to grow a new tree/plant.

Replacement cost of formal structures, registered in the Cadastre, will correspond to the market value of structures with similar characteristics, in the affected area, plus any transaction costs.

Replacement cost of informal residential or business structures (built without construction permits and not registered in the Cadastre) as well as non residential structures, will be calculated as the cost of rebuilding a structure of similar characteristics in another location, including materials, costs of labour and any transaction costs (i.e. the construction value of structures).

Cash compensation for lost net income and other economic / livelihood losses

All individuals / households / businesses who will be permanently economically displaced, as determined during the development of the RAP, through the census / socio economic survey, will be entitled to cash compensation for lost net income during the period of transition (until the re-establishment of business/economic activities in another location).

Appraisal of business losses (lost net income) will be carried out by certified appraisers, based on all available documents (business records, tax records, and generally any document that can help ascertain the volume of sales, expenses, taxes, and finally the net income generated by the business). If the business is completely informal and no record is available, as well as for any loss of livelihood (e.g. loss of subsistence), an estimation of net income (per month, week, day, as appropriate) and/or loss will be made. Livelihood restoration assistance will also be provided as described further in this section.

In the event of displacement of businesses, any affected employees will also be entitled to compensation (transitional allowance depending on the time period and the nature of displacement) and livelihood restoration assistance.

8.2 Resettlement Assistance

Resettlement assistance will be defined based on the outcome of the socio economic survey, in accordance with the specific needs of affected people. This assistance is very often provided to vulnerable households which are physically or economically displaced by a project and can include the following:

- Assistance to resettle to appropriate accommodation with security of tenure. For example, a vulnerable household that has no other place of residence than the

affected informal residential structure, may be assisted to resettle to a municipal social apartment, with a long term contract to ensure security of tenure.

- Legal aid
- Assistance to obtain personal documents, to help with accessing services available under national legislation
- Assistance to access social welfare
- Assistance to enroll children into school
- Assistance to access health care, etc.

Resettlement assistance also includes the provision of a moving allowance for household members and movable assets, or assistance to move them. Such assets include furniture, equipment, personal belongings of families, etc.

Resettlement assistance will be provided to those identified as needing it during the socio economic survey. TD will cooperate with institutions and organisations that can provide needed services, such as the municipal centre for social welfare or local organisations which work with vulnerable groups to assist them in accessing appropriate services.

8.3 Livelihood Restoration Assistance

In case the implementation of the Project and loss of land and other assets or access to assets, leads to loss of income sources or means of livelihood (economic displacement) of project affected people, alongside cash compensation for affected land and assets, TD PIU will implement livelihood restoration measures which will be defined in greater detail in the RAP. Such measures may include:

- compensation for the cost of re-establishing business activities elsewhere
- access to employment opportunities created by the Project
- assistance to identify and access other income/livelihood generation activities
- assistance to access training, skill development, job opportunities, etc.
- assistance to access credit facilities
- provision of any transitional support
- compensation for or assistance to transport equipment or machinery

Livelihood restoration assistance will be provided to those identified as needing it during the socio economic survey. TD PIU will cooperate with institutions and organisations that can provide this assistance, such as the local Employment Bureau or local organisations which implement job training, adult education, access to credit facilities, etc.

9 Organisational Arrangements

The development and implementation of this RPF and RAPs, including carrying out the census/socio economic survey, grievance management and monitoring and reporting, is the responsibility of the TD PIU. However, many of the activities within the process of land acquisition are performed by various other institutions and organisations, as summarized in Table 9.1.

Table 9.1 Organisational roles and responsibilities

Name of the institution / organisation	Roles and responsibilities
TD PIU of the Ministry of Transport and Maritime Affairs	<ul style="list-style-type: none"> Overall responsibility for the development and implementation of the RPF and RAPs Role of the Beneficiary of Expropriation (except for the Budva boulevard section)
Government of Montenegro	<ul style="list-style-type: none"> Proclamation of public interest (except for the Budva boulevard section)
Budva Municipal Assembly	<ul style="list-style-type: none"> Proclamation of public interest for the Budva boulevard section
Ministry of Finance of Montenegro	<ul style="list-style-type: none"> Securing the necessary funds for land acquisition
Design teams	<ul style="list-style-type: none"> Organisation of community meetings in cooperation with the municipalities, to disclose the planned road footprints and seek feedback on the need to avoid affecting important assets Revision of the design to ensure physical and economic displacement has been avoided to the extent possible
Real Estate Directorate of Montenegro, including municipal offices	<ul style="list-style-type: none"> Forms the Commission for Value Assessment, which is in charge of appraising affected land and assets Acts as the administrative authority which facilitates expropriation in the municipality where land is being acquired (for example, invites owners/users of affected properties to meetings and individual hearings, passes the decision on expropriation, facilitates meetings encouraging the conclusion of amicable agreements on compensation between the Beneficiary of Expropriation and the affected owner/user).
Municipalities on whose territories construction / reconstruction of road	<ul style="list-style-type: none"> In the case of the Budva boulevard, the municipality acts as the Beneficiary of Expropriation (represented by the Secretariat for Property Protection)

Name of the institution / organisation	Roles and responsibilities
sections is being carried out: <ul style="list-style-type: none"> • Budva • Nikšić • Bijelo Polje • Rožaje • Ulcinj • Mojkovac 	<ul style="list-style-type: none"> • Municipalities cooperate with the TD PIU in identifying the whereabouts of affected owners/users of land, in organizing meetings with affected people, in informing affected people on key project milestones (e.g. start of expropriation, construction, traffic management) and on ways they can approach the TD PIU with grievances, etc.
Construction contractors	<ul style="list-style-type: none"> • Inform owners and users of land in the area where construction activities will be carried out, about the start and planned end date of these activities. • Take measures to secure the construction sites, minimize construction nuisances and ensure uninterrupted access to properties along the footprint of the road section being constructed / reconstructed, as well as complete reinstatement of land after use, where applicable.
Service providers (for example, municipal centre for social welfare, employment bureau, training organisations, etc.)	<ul style="list-style-type: none"> • Provision of resettlement and / or livelihood restoration assistance in cooperation with the TD PIU.

10 Timeframe

At the time when this RPF is being updated, construction of three road sections has been completed (Bypass Nikšić II phase, climbing lane Kuside and climbing lane Slijepač most), while one is under construction (connection of two boulevards in Budva).

A RAP for the remaining three sections (Bypass Rožaje, climbing lane Lepenac, reconstruction of the road Ulcinj – Krute) will be developed and disclosed in June 2016, with land acquisition planned to be completed by mid 2017.

11 Disclosure of Information and Consultations

This RPF (in English and Montenegrin) is available on the TD official website (<http://www.dzscg.com>). The RAP for the Bypass Nikšić phase II is also disclosed on the website, while the final RAP for the project, covering the construction of the Bypass Rožaje

and the reconstruction of the climbing lane Lepenac and the road Ulcinj – Krute will be disclosed in June 2016.

Consultations with affected people have been held since the beginning of project implementation, starting with public meetings held in the affected municipalities in the process of developing the Main Design. In these meetings, the design teams have been presenting maps of planned road footprints and requesting feedback on whether any structures or other important assets are being affected, to be able to consider micro alignments for avoiding such assets.

In the process of informing affected owners / users of land about the initiation of expropriation, municipal Real Estate Directorates and municipality representatives either organise joint meetings (in locations where the population is living in concentrated settlements) or invite each affected owner / user to an individual hearing. Further interaction with the Directorate and representatives of the TD PIU continues until the decision on expropriation becomes legally binding. During this time, affected people are also in communication with the Real Estate Directorate's Commission for Value Assessment, when their land and assets are being appraised and when an offer for compensation is being made to them.

For the final project RAP, TD PIU will organise the census/socio economic survey interviews by contacting owners of each affected land plot individually, through contact details provided in the Cadastre. Where the details are outdated or missing, TD PIU will enquire about the owners and users of an affected land plot with representatives of local communities and/or owners and users of neighbouring or nearby plots of land and with any other community members who may be able to provide this information, for example the local post office.

Following the results of the socio economic survey, it may be necessary to organise individual meetings or focus groups with any particularly vulnerable people, to identify their needs for assistance and develop appropriate mitigation measures which will be documented in the RAP.

All meetings and consultations will be documented by the TD PIU, providing the date when the meeting/ consultation was held, list of attendees, and a summary of the discussions. The minutes will be included in reports provided to TD management and EIB.

Finally, affected people are able to interact with the TD PIU and construction contractors before and after land acquisition, through the Grievance Mechanism described in the following section of the RPF. Before the start of construction, contractors are obliged to inform owners and users of land in the area where construction activities will be carried out, about the start and planned end date of these activities.

12 Grievance Mechanism

TD and the contractors accept all queries, comments and complaints associated with Project related land acquisition.

Affected people can submit comments, complaints and/or requests for information in person or via post, telephone or email using the contact information of the TD PIU Legal Expert and the Construction Contractor (s), provided in the RAPs.

All grievances are registered and acknowledged within 7 days and responded to within 30 days. For complex grievances, more time is sometimes needed, in which case the TD PIU Legal Expert informs the person that submitted the grievance (within those 30 days) of the expected time frame for the response.

The TD PIU Legal Expert collects and records all grievances. Grievances are processed by the Grievance Management and Redress Committee, consisting of the TD PIU Legal Expert, a TD PIU Technical Expert, representatives of the local community / municipality and the relevant Real Estate Directorate. The TD PIU Legal Expert then sends a response to the person who submitted the grievance based on the decision of the Committee, including what actions have been undertaken to address the grievance, if applicable.

Grievances in relation to construction activities are addressed directly by construction contractor(s) and their management is being monitored by the TD PIU Legal Expert.

At all times, complainants are able to seek legal remedies in accordance with the laws and regulations of Montenegro.

13 Monitoring and Reporting

13.1 Monitoring

Once each RAP is developed and adopted, TD PIU monitors implementation until all displacement impacts have been mitigated.

An internal monitoring system has been established in the TD, consisting of:

- Progress monitoring of inputs and outputs which measures whether inputs are delivered on schedule and as defined in the RPF and the RAP
- Periodic measurement of outcome indicators against baseline conditions, obtained through the socio economic survey

Table 13.1 provides an indicative list of indicators which are used for monitoring. A final list of indicators, developed based on the results of the socio economic survey will be included in the RAP.

Table 13.1 Indicative monitoring input, output and outcome indicators

Indicator	Source of Information	Frequency of Measurement
Input indicators		
Number of affected people/households, by category (formal or informal, owners or users, vulnerable groups, employees) and types of impacts (physical displacement, temporary or permanent economic displacement, other)	TD PIU resettlement database and grievance management records	Monthly
Number and type of affected assets (land, houses, non residential structures, crops, trees, etc.)	TD PIU resettlement database	Monthly
Overall spending on compensation, resettlement and livelihood restoration	TD financial records	Monthly
Number of staff dedicated to resettlement and compensation, with distribution in-house / outsourced (if applicable)	TD Legal Department (Human Resources officer)	Biannually
Reinstatement of land – number of plots complete	Construction contractors' reports and grievance management records	Quarterly
Timing of implemented activities in comparison to the RAP implementation schedule	Compare status of implementation to RAP schedule	Biannually
Output indicators		
Number of compensation contracts signed Number and % of compensation payments executed	TD PIU resettlement data base and financial records	Quarterly
Physical Displacement – number of people/households resettled, type of resettlement assistance provided	TD PIU resettlement database	Biannually
Livelihood restoration measures – types of measures implemented, implementation progress, number of beneficiaries	TD PIU resettlement database	Biannually
Outcome indicators		
Number and type of outstanding or unresolved grievances and trends	Grievance management records	Quarterly
Average time for payment of compensation	Measure time between compensation agreement and payment	Annually
Does compensation represent full replacement cost?	Investigate whether recipients of cash compensation were able to purchase a similar property	Annually
Use of compensation	Investigate how recipients of cash compensation spent / invested it	Annually

Indicator	Source of Information	Frequency of Measurement
Physical displacement - satisfaction with new homes / assets	Investigate whether physically displaced people/households are satisfied with their new accommodation, location, etc. TD PIU resettlement database	Annually
Income / livelihoods: <ul style="list-style-type: none"> Changes in income level (maintained, increased, decreased) Reinvestment in livelihood activities (purchase of land, equipment, skill training, etc.) 	Individual meetings with people/households who have been economically displaced TD PIU resettlement database	Annually

13.2 Reporting

TD PIU will maintain a database of the individuals / households / businesses whose properties have been affected by the Project, compensation, resettlement and livelihood restoration measures that have been implemented. The TD PIU will be responsible for regularly updating the database. All information on individuals / families, their holdings and their compensation payments will be kept confidential.

Using the monitoring framework described in Section 13.1 of this document, TD PIU will produce quarterly progress reports on the progress achieved with the implementation of the RPF/RAP and submit them to EIB. These reports will consolidate the information on compensation and resettlement/livelihood restoration measures, consultations, information on negotiations and results, provision of assistance to vulnerable groups, grievance management, etc. TD PIU will document all meetings and consultations with minutes and photographs, and will submit these to EIB, together with progress reports.

A final report will be developed and submitted to EIB when all land acquisition has been completed and all impacts successfully mitigated.

14 Implementation Costs

The Ministry of Finance of Montenegro is responsible for securing the necessary funding for land acquisition. Funds are transferred from the State budget to the TD for the sole purpose of land acquisition.

The costs of the PIU are borne by the TD.

More detailed cost estimates for land acquisition of individual sections are provided in the RAPs.

Annex 1 Outline of a RAP

HEADING	DESCRIPTION
INTRODUCTION	Purpose, scope and content of the plan Description of how the plan was prepared and approved and by whom.
PROJECT DESCRIPTION	General description of the project and description of the project components and activities that will require land acquisition and cause physical / economic displacement.
PROJECT IMPACTS	Expected project impacts / losses associated with the project components/phases covered by the plan Explanation of all activities and alternatives considered to avoid or minimise displacement
LEGAL FRAMEWORK	National legal framework (expropriation, land tenure and provision of resettlement/livelihood restoration assistance) Lender requirements Gap analyses between national legislation and Lender requirements and measures to bridge any gaps between them.
AFFECTED PEOPLE AND ASSETS	Results of the socioeconomic survey and any other tools used, e.g. focus groups, covering for example: <ul style="list-style-type: none"> • People/households who will be physically displaced and land tenure • People/ households / businesses who will be economically displaced and land tenure • Standard characteristics of displaced people/households businesses and baseline information • Information on vulnerable groups • Social networks and social support systems, and how they will be affected by the project • Description of affected assets, including natural resources, public infrastructure and services
KEY COMPENSATION AND ASSISTANCE PRINCIPLES	Key principles of compensation, resettlement and livelihood restoration that the developer is committed to implementing
ELIGIBILITY	Description and results of the census Description of cut off date for eligibility Eligibility of categories of displaced persons for compensation and other resettlement assistance.
ENTITLEMENTS MATRIX	Entitlements matrix addressing categories of losses and entitlements pertaining to the project components/phases in question
COMPENSATION AND ASSISTANCE	Description of the methodology for valuing losses to determine their replacement cost Description of compensation and assistance measures Description of process for executing compensation and assistance Description of organised resettlement programme (selection of locations, design of housing, planned infrastructure, improvements for host community, etc.), if applicable

HEADING	DESCRIPTION
ORGANISATIONAL ARRANGEMENTS	Procedures for the delivery of entitlements and the roles and responsibilities of all involved agencies / organisations (developer, authorities, various service providers), including coordination arrangements
TIMEFRAME	Implementation timeframe covering all activities from preparation of the plan, through implementation, including monitoring and evaluation. Description of the linkage between resettlement implementation and initiation of civil works for each of the project components.
DISCLOSURE OF INFORMATION AND CONSULTATIONS	Description of engagement activities undertaken as part of developing the plan, its finalisation and approval. Summary of the views expressed and how these views were taken into account in preparing the plan Description of planned stakeholder engagement during implementation
GRIEVANCE MECHANISM	Description of grievance mechanism with contact details of those responsible for grievances for the project component / phase in question
MONITORING AND REPORTING	Description of the internal and external monitoring and evaluation arrangements Monitoring indicators to measure inputs, outputs, and outcomes for resettlement/livelihood restoration activities Reporting on the implementation of the plan
IMPLEMENTATION COSTS	Tables presenting expected costs for all resettlement activities and sources of funds