Land Acquisition/Resettlement Policy Framework
Romania Transport Restructuring Project

Background

The Transport Restructuring Project will have both railroad and road components. The rail component will support efforts to modernize the rail system, including both capacity building for institutional development and investments in new equipment. There will be no construction.

The road component will support initiatives to increase highway safety by improving sites with high accident rates, heightening driver awareness and constructing bypasses to move heavy traffic from congested and narrow city and town centers. A number of high priority sites are under consideration.

Construction of the bypasses will require land acquisition. A number of potential sites have been identified, some of which will be funded through the project. This Land Acquisition Policy Framework is submitted for review and approval by the World Bank because it has not been decided which bypasses will be constructed with project funds and therefore it is not possible to determine the number or location of people to be affected by land acquisition. This Policy Framework establishes the legal basis for land acquisition and describes land acquisition procedures that will be followed during project implementation to ensure that the process complies with OP/BP 4.12, Involuntary Resettlement.

Objective

The objective of the bypasses is to reduce traffic congestion in cities and to preserve historic city centers. The bypasses will reroute heavy traffic away from population centers and old, narrow streets. Current transit routes follow principal arteries that traverse the oldest parts of town. Not only are these streets narrow and congested, but they are generally lined by the oldest buildings with the greatest historical value. In many cases, vibrations from the heavy traffic are taking a real toll on the structural integrity and decoration of buildings, in addition to the inevitable visible effects of pollution.

Land will be acquired for rights of way for the bypass roads and intersections. The amount of land taken in each bypass varies according to the width of the road. Land acquisition is kept to a minimum, and road alignments are designed to avoid homes. Both of these practices correspond to the basic requirements of OP/BP 4.12, Involuntary Resettlement.

Legal Basis for Land Acquisition

The bypass investments to be carried out under the project are all sanctioned under one or more of the following legal acts:

- Law No. 71/1996, the Plan for the National Territory Layout, Section I, Means of Communication;
• Government Ordinance No. 16/1999, Priority Program for Construction of Motorways and National Roads having four traffic lanes; and
• Law No. 1/2002, which amends Government Ordinance No. 16/1999
• Law No. 33/1994 regarding the expropriation for reasons of public utility;
• Law No. 198/2004 regarding several measures prior to works for motorways and national roads construction.

These laws establish the basis for investments to be classified as being of national interest (“public utility”), which enables an agency, in this case the Roads Administration (R.N.C.M.N.R.) to acquire or expropriate private land on behalf of the State, as the Expropriator. Procedures for expropriation are specified in Law No. 198/2004, regarding several measures prior to works for motorways and national roads construction (Attachment A) and is completed by the provisions of Law no. 33/1994 regarding the Process of Land Acquisition for Reasons of Public Utility (Attachment B).

By the content of Law 198/2004 itself, more exactly by art. 2 of the law are declared as public utility all the works for motorways and national roads construction, the Expropriator of these works being the Romanian State by R.N.C.M.N.R. Thus, since the issuance of this law, it is no more necessary to follow the procedure regarding the declaration of public utility provided by Law no. 33/1994.

In view of carrying out the expropriation, in accordance with art. 4 of Law 198/2004, a Governmental Decision should be adopted, which would approve the work setting, the starting of the expropriation procedure for buildings which represent the site, the estimated global sum for damages, the term within which this amount is transferred in a bank account open in the Expropriator’ s name and the financing source.

The expropriation, namely the transfer of the ownership title over the land to the Romanian State occurs immediately, that is at the moment when the owner is paid or is registered a fair amount for damages, specified in the judgement of the committee provided by Law 198/2004. In case when the holder of the ownership title and/or the holders of other real rights over the land do not agree with the damages amount, they may address the law court to set out the compensation amount, in accordance with provisions set by Law no. 33/1994.

Thus, the operating principles are the following:
• The public utility is declared by the effect of the law, namely Law 198/2004, for all motorways and national roads construction works;
• The expropriation procedure is commenced by the approval of a Governmental Decision, which is based on a technical-economical documentation elaborated by the Expropriator.
• The transfer of the ownership to the Romanian State operates immediately after the payment is made or the damages are registered. Eventual litigation regarding the ownership title will not suspend the expropriation procedure.

Project Affected People

The people affected by the project are people who own land that falls in the right of way for the roads and intersections. They will be identified during the final design of structure, and notified by a notice made in a local newspaper of administrative units affected by expropriation, regarding the date when the expropriation plan shall be made public at the local council and the list with the affected owners. In most cases, the land lost will be a narrow strip of land. If an absentee owner cannot be determined or located, or if there is uncertainty regarding his/her quality as holder of the ownership title, the amount representing the damages is registered in his/her name and shall be issued by the Expropriator upon request, only to the person who shall make, according to legal provisions, the ownership proof.
Responsibility and Funding

The land acquisition process related to project investments will be undertaken by the Land Acquisition Unit of the Romanian National Company of Motorways and National Roads, based on topographical surveys and expropriation plan. The unit keeps an evidence of the steps carried out, an evidence made available for review during Bank supervision.

R.N.C.M.N.R. pays/accompanies, registers the amounts representing the damages for the land from an amount approved by the Governmental Decision for the commencement of the expropriation procedure, the amount set out on the basis of the evaluation reports elaborated by the authorized experts. The land acquisition transfer must be fully completed before any work can begin on the expropriated or acquired property.

The Land Acquisition/Expropriation Process

Commencement of the expropriation
The expropriation is started by approving a Governmental Decision, based on a technical-economical documentation elaborated by the Expropriator.

Expropriation Publicity
The plan with the works layout is made public by being posted in the local council headquarters, where it must remain until the compensation procedure is completely finished. The plan specifying the work site shall be published also in a local newspaper.

Submission of compensation requests
The request for payment of damages with all supporting documents shall be submitted within 30 days since the Governmental Decision entered into force, to the headquarters of the local council on the territory within which the building is located.

Procedure before the committees for awarding the compensation
Within 5 days since the Governmental Decision entered into force, the expropriator appoints a committee in order to verify the ownership title or another real right on the basis of which the request was made and it issues a judgement regarding the amount of damages, further to a mutual agreement with the owner or with the holders of other real rights. This agreement is the basis for issuance, by the committee, of a decision regarding the damages payment.

In case of an incomplete documentation regarding the quality of the ownership holder (or of other real rights), upon request made by the committee, the damages claimer is obliged to complete the submitted documentation within 15 days. Otherwise, the committee will register the damages in the claimer’s name, but its payment will be made only when the claimer proves his/her right under provisions of the present law.

Payment/registration of the damages and transfer of ownership
Within 5 days, but not later than 15 days since the issuance date of the committee’s decision, the expropriator makes, by bank transfer or in cash, the payment of damages or their registration to the holders of real rights over the expropriated real estate. The transfer of ownership operates upon payment/registration.

Starting Works.
R.N.C.M.N.R. will receive a construction permit to begin civil works after registration of the ownership title over the expropriated land.

**Procedure for Administrative Dispute**

The expropriated person unsatisfied by the amount of the damages, as well as any other person who considers herself entitled to receive damages for the expropriation of the building, may address the competent law court within 3 years since the date of entering into force of the Government Decision for starting the expropriation procedure, or within 15 days since the date of notification of the committee’s decision by which the damages claim has been rejected totally or partially.

The action is settled according to the provisions of art. 21-27 of the Law no. 33/1994 regarding the expropriation for reasons of public utility, concerning the setting of compensation amount. In this case, the payment of damages is made by the expropriator within 30 days since the request was made, on the basis of the legal decision for setting its amount, a decision being definite and irrevocable.

The law court constitutes an expertise committee consisting of one R.N.C.M.N.R. representative, one from the Tribunal and one on behalf of the owner(s). The committee makes an individual assessment of the compensation and of damages, compares the results with the offers made by R.N.C.M.N.R. and, correspondingly, by the owners, and recommends an amount that is not less than the expropriator’s offer or more than the owner’s request.

The judgement of the instance may be carried further in the law court, according to the common law, by appeal or petition for review.

If the expropriated land contains a dwelling inhabited by owners or renters, the inhabitants cannot be evacuated until the R.N.C.M.N.R. ensures that alternative housing has been secured for the inhabitants. Owner occupants can request direct compensation for the dwelling being expropriated or insist that the R.N.C.M.N.R. obtain another dwelling to trade. Renters are transferred to other rental properties.

**Compliance with OP/BP 4.12, Involuntary Resettlement**

The procedures described above provide full compliance with the objectives of OP/BP 4.12:

- the process is transparent and public;
- compensation is fair and prior to expropriation;
- the law allows for the persons dissatisfied by the damages amount, to go to law court
- the entire process is documented

For purposes of compliance, for each bypass site, the final drawings and expropriation lists, which provide details on parcels, ownership and recommended compensation, constitute Land Acquisition Plans.

Each Plan will be submitted to the project implementation office for review during Bank supervision missions. Until the expropriation process is fully completed in a site, the respective Plan will be updated every three months.