

## **Land Acquisition/ Involuntary Resettlement Policy Framework for Romania Municipal Services Project**

### **A. Project Background**

The Municipal Services Project involves construction of physical infrastructure in the area of Bucharest and Arad Municipalities, such as water supply, sewerage, storm water drainage and road paving.

The Municipalities have identified a number of priority districts based on the approved urban development plans. For Bucharest, the priority districts are in sectors 1 and 6, and consist of built up areas which currently do not have water and wastewater services and new residential areas.

### **Activities to be Financed for Bucharest Municipality**

The population served by the project (residents and business demand) is projected to exceed 133,000 by the year 2034 as per the General Urban Plan. The main growth will come from the Otopeni North and the Baneasa regions which are growing very fast and as a result the development of infrastructure in these areas is included in Phase I of the urban development program.

1. **Baneasa District (Sector 1).** Baneasa is a new area under development by a private developer to provide residential, business and commercial facilities. The construction of commercial areas is finalized and the almost 3,000 housing units were foreseen to be constructed in the area. An EU Phare financed project was under implementation and brought in water to this district and also two 2500 m<sup>3</sup> reservoirs and a water pumping station were built. The Bank's project will help to build the water, sewerage, and storm water networks in the district. Road paving will be done in the 20 hectares (ha.) of the publicly owned land in this district.

2. **Vatra Noua District (Sector 1)** is a built-up area of 50 ha. where the proposed investments are:

- (a) **Water:** it will be supplied through the extension of the 400 mm. pipeline along Ionescu Sisesti Street and 12.2 km distribution pipelines within the district;
- (b) A combined **sewerage and storm water system** has been designed as the system is small and a part has already been constructed. The new wastewater network will be 9.6 km long and the wastewater is discharged by gravity through 5 outlet points into the existing main sewer along Gheorghe Sisesti Street; and
- (c) **Roads:** 11.1 km of roads (6 m wide) will be paved.

3. **Straulesti District (Sector 1)** is a built-up area of 115 ha. where the proposed investments are:

- (a) **Water:** It will be provided through the main line being constructed under the Otopeni-North project and a 12.1 km distribution pipeline within the district;
- (b) **Sewerage:** 10.7 km of sewerage will be constructed and the wastewater will discharge to the existing main sewer along the Bucharest - Targoviste road by gravity;
- (c) **Stormwater:** 10.9 km of network will be constructed; and
- (d) **Roads:** 9.5 km of roads (6 m wide) will be paved.

4. **Otopeni North and Baneasa North Area (Sector 1)** comprises an area of 570 ha for urban development for an estimated population of 80,000 to 95,000 people. Development of the area has not yet started, so the project will only provide bulk water to the area without the distribution network and bring in the sewerage connection points to the perimeter of the area. Investments include:

- (a) **Water:** bulk supply through mains of 14.3 km,
- (b) **Sewerage:** Extension of a main sewer line by 2.9 km, and
- (c) **Stormwater** - 0.6 km of collector with outfall structure and discharge into a lagoon.

5. **Odai District (Sector 1)** is a green-field area of 32 ha. where social housing will be built. Proposed investments are:

- (a) **Water:** it will be provided from the Otopeni North and Baneasa North project and through the 1.1 km distribution system;
- (b) **Sewerage:** 1.1 km of sewerage networks will be installed and the wastewater will be discharged to the sewer line in the Bucharest - Targoviste road;
- (c) **Stormwater:** 1.3 km of collectors will be constructed which will allow 1350. m<sup>3</sup> of underground and in-line storage;
- (d) **Roads:** 1.5 km. of roads (6 m wide) will be paved.

6. **Chitila Triaj Area (Sector 1 )** is a built-up area of 70 ha. where the proposed investments are:

- (a) **Water:** It will be supplied through 1.7 km of distribution system;
- (b) **Wastewater:** Since the area is small and near a combined system, a combined sewerage and storm water system has been designed. The proposed wastewater network has a length of 1.0 km and the wastewater will be pumped to an existing main collector; and
- (c) **Roads:** 4.5 km. of roads (6 m wide) will be paved.

7. **Giulesti Sarbi District (Sector 6)** is an area of 200 ha and only part of the area is built-up with partial drinking water and wastewater services. A large portion of the district is regularly flooded. Proposed investments are:

- (a) **Water:** construction of 10.3 km transmission main and 13.8 km distribution system;
- (b) **Sewerage:** a separate sewerage system has been designed for this district, except for some small area where a combined system exists already. 10.6 km of collectors will be constructed, the Boanca sewer line will be extended by 1.1 km, and a pumping station will be built;

- (c) **Stormwater:** 10.6 km of storm water pipes will be installed. An additional drainage system of 2.3 km has been foreseen to lower the very high groundwater table in the south eastern part of the area; and
- (d) **Roads:** 10.2 km. of roads (6 and 10 m) will be paved.

### **Activities to be financed for Arad Municipality**

Arad is a medium-size city of 190,000 located in the west of Romania close to the Hungarian border. It is situated on the Mures River which enters Hungary 50 km downstream of Arad and flows into the Tisza River which in turn flows into the Danube. The municipality has recently experienced rapid industrial growth stimulated by the automotive industry and border trade with Hungary and the EU.

- Eligible expenditures under this component would be for: (a) Works for the provision of new urban services – sewerage, drainage and road surfacing – in priority neighborhoods; and (b) Technical Assistance to prepare bidding documents, for construction supervision, support to the municipality to implement the project, and complete financial audits.

Arad is experiencing rapid industrial growth stimulated by the industrial zones created within the city and the border trade with Hungary and other EU Member States. Meeting EU standards through improved urban services is a high priority for the municipality, including the construction of a sewerage and storm water network to meet the growth needs. In Arad, the water and wastewater services are provided by Regional Autonomous Water and Sewerage Company (RAAC) Arad, a publicly-owned company that has a service contract with the County Council for the operation and maintenance of water and wastewater assets in five areas in the county, including the Arad municipality. RAAC is a public company and was not competitively selected. According to Romanian Law on State Aid, and in line with EU policy on State Aid, the operator that would operate the assets and benefit from the support provided by MoPF under this project should be selected on a competitive basis. To this end, Arad municipality will carry out a public tender to select and conclude a service or concession contract with an operator, by June 30, 2008, which will provide wastewater and drainage services through the assets created under the project. The national regulator for local services Autoritatea Nationala de Reglementare pentru Servicii Publice de Gospodarie (ANRSC) will regulate the selected operator.

The project will cover three districts (Bujac, Gai, and Sanicolaul Mic) in Arad municipality and benefit a current population of 22,000, representing about 90% of the population in these districts, which does not have access to public sewerage and uses septic tanks that leak into the groundwater. The project areas also need proper drainage facilities as they are prone to flooding. The project investments are:

- Sewerage: Households will be connected to the sewer system, which will feed a new wastewater treatment plant being built with EU financing. This plant will treat the collected wastewater to EU standards;
- Stormwater drainage: Stormwater drainage will be installed, especially in the low lying project areas; and
- Road paving: Roads in which sewerage pipes and storm water drains are installed will be restored to at least their original quality. However, road paving has benefits for the traffic and the impact on vehicle maintenance and reduces siltation of the storm water drains. The municipality will determine, prior to construction, whether or not roads in each district should be paved. This determination will be based on a satisfactory economic rate of return for the Bank to provide the no objection to road paving.

#### Summary of the investments in project districts

1. Bujac District is a residential district located in the north-western part of Arad, with a surface area of 325 ha. Only 10% of the population is connected to a sewerage system. Proposed investment are: (a) Sewerage: 40.3 km of sewerage distribution network, collected by gravity and pumped by two pumping stations into proposed collectors, which will discharge into the existing collector in Targului Street; (b) Stormwater: 39.1 km network and two outlet points will be constructed. The stormwater will be pumped into the lagoons and discharged by gravity into the Muresel channel that flows into the Mures River; and (c) Roads: 35.3 km of roads (6 and 7 m. wide) will be paved. Currently only 4.1 km is paved.

2. Gai District is located at the northern outskirts of the town and has a total area of 720 ha. An industrial park is planned to be constructed to the north of this area. At present, only one street in the south-east of the district is connected to a public sewerage system. Proposed investments are: (a) Sewerage: 29.6 km of distribution network connected; (b) Stormwater: 29.1 km of network constructed along with 3 retention lagoons; and (c) Roads: 31.0 km of roads (6 and 7 meters wide) will be paved.

3. Sanicolaul District is located at the southern boundary of the town, with an area of 240 ha and a population of 5,000 and expected to grow to 28,000. Proposed investments are: (a) Sewerage: 15.4 km of distribution network plus three pumping stations; (b) Stormwater: 12.9 km network and a lagoon, functioning as a retention basin, to reduce the peak flow to the Mures river; and (c) Roads: Paving about 17.5 km of roads where the sewerage and stormwater investments will take place.

At the negotiation stage, the Municipalities both declared their intention to exclude any infrastructure schemes that require land acquisition (land expropriation for public purposes) from the Project.

Statements regarding the non-existence of any Environmental and Resettlement issues as defined in the Loan Agreement no. 4835-RO with respect to all 3 contracts

in Bucharest—B1, B2 and B3—and Arad—A1, A2, and A3—were submitted to the Bank before the bidding process has been launched; in the statement is mentioned the commitment of the implementing entity to solve any unfortunate cases that might appear during execution without affecting the performance of the Works. The Bucharest example is provided below:

*"Without limitation upon the provisions of Article V of the General Conditions, the Project Implementing Entity states hereby that: [...]*

- (a) the Borrower and the Bank shall be promptly informed of any developments in the legislation, rules or procedures of, or applicable to the Project Implementing Entity that may affect the implementation of Part 1/2 of the Project;*
- (b) the environmental impact assessment study and the environmental permits that may be required for the carrying out of Part 1/2 of the Project shall be sent to the Bank; and*
- (c) the implementation of Part 1(2) of the Project does not cause, or result in, Resettlement"*

*From the best knowledge of the Project Implementing Entity there is no any known land acquisition issues related to the contracts B1/B2/B3 that may negatively impact the progress of the project. In the unfortunate case that during the execution of Works such issues will occur the Project Implementing Entity commit itself to solve them in the best way possible without affecting the performance of the Works, itself."*

## **B. Project and LAPF Objectives**

The objective of the municipal services project is to directly improve the quality of water and wastewater services and reduce flooding of low lying city areas where new drainage networks will be built. The project also supports urban services (water, sewerage, and storm water) which will support urban development in Bucharest and Arad and allow water and wastewater services to be provided as per EU directives.

Priority was given to infrastructure sub-projects on property already owned by the Municipalities. When the issue of acquiring additional land appeared in the case of Bucharest, the Municipality made every effort to minimize the land acquisition necessary and to avoid residential property, proceeds by the applicable law and duly informed the Bank, all in accordance with the above mentioned Statement and the basic requirements of OP/BP 4.12, Involuntary Resettlement.

This Land Acquisition Policy Framework is submitted for review and approval by the World Bank because 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 / involuntary resettlement and describes the procedures that will be followed during implementation to ensure that the process complies with OP/BP 4.12, Involuntary Resettlement. This LAPF is taking into consideration that a small number of owners are to be affected by land expropriation, an Abbreviated Land Acquisition Plan will be prepared for each sub-project, according with the principles, objectives and processes stated herein.

## **C. Legal Basis for Land Acquisition and OP4.12 Gap Analysis**

## C.1. Applicable Law

The Romanian Constitution (Art. 44, para. 3.6) protects the ownership of private property and provides that "nobody may be expropriated unless for a cause of public use, established according to the law, subject to a fair and prior compensation." Implementation of this clause is the subject of the Expropriation Law (33/1994) regarding the Process of Land Acquisition for Reasons of Public Use, referred to as the "Expropriation Law." Procedures for establishing public use are articulated in Government Resolution 583/1994 on "Regulation regarding the procedure of the commissions for performing a prior investigation to declare a public use for national or local interest works".

The Expropriation Law specifies conditions under which different governmental authorities (national, county and local) can expropriate private land and outlines procedures for doing so.

The Expropriation Law is detailed and particularized at the level of public government and the sector (utilities and roads) by the following supporting legislation:

- Law 215/2001 regarding local public administration
- Law no. 51/2006 with all its modifications regarding Community Services of Public utilities
- General framework regarding organization of public services for water supply and sewage, issued on February 18, 2003
- Law 213/1998 with all its modifications and regarding public property and its legal status
- Law nr. 198/2008 modified and updated, regarding some previous measures for construction of motorways and national, county and local roads
- Government Decision no. 434/2009 regarding the approval of methodological norms of application of Law 198/2004 regarding some previous measures for construction of motorways and national, county and local roads.

These laws establish the basis for investments to be classified as being of public interest ("public utility") and gives to the Municipality of Bucharest the legal tools to undertake an ex-ante assessment of land in question in order to determine its public utility for works of local public interest, assessment which will enable it to start the procedure for obtaining the property right on that land.

The procedures for expropriation are specified in Law no. 33/1994 regarding the Process of Land Acquisition for Reasons of **Public Utility** and the legal framework established to undertake some previous measures before construction of roads of national, county and local interest, as defined in art. 5 from the Government Ordinance no. 43/1997 regarding the roads regime, republished with all its modifications and following additions.

In Romania, expropriation at all levels is governed by a general framework Expropriation

Law 33/1994, the implementation of which is guided by Government Resolution 583/199425. The basic principles are straightforward: (i) expropriation must be justified and minimized; (ii) compensation is in cash based on market value and damages; (iii) contracts are subject to judicial review and ratification; (iv) failed negotiations regarding compensation are settled by the courts, informed by an expert valuation assessment; and (v) civil works can start only after the transfer of the title is ordered by the courts and full compensation is paid.

Government Resolution 583/1994, a companion to Law 33/1994, sets procedures and the functioning and membership of review commissions involved in making the Expropriation Decision. These procedures apply to all levels of government. The process consists of three stages that are described in Law 33/1994. The following titles were assigned to these stages for clarification:

1. *Declaration of Public Use*—based on a feasibility study and economic analysis, in the expropriation request the expropriator must demonstrate public need (“Public Use”); document that the investment is included in the urban or regional plan; and include a preliminary assessment of land acquisition and cost. Documentation is reviewed by a commission (county, local), which obtains inputs from utilities, agencies and interested parties. People who feel they may be affected can inquire and raise objections at this time. The commission either accepts the proposal and issues a Location Permit, or returns it to the expropriator. Minutes of the decision meeting are posted and distributed to affected parties. The Location Permit is posted in the County or Local Council and published in a local newspaper.
2. *Administration*—based on the Technical Design, which specifies ownership of affected parcels (approved by the Cadastre office) and compensation levels set by authorized assessors, the expropriator can acquire land or rights-of-way. The design and proposed aggregate compensation is posted in the County or Local Council and published in a local newspaper, and owners are notified of the intent to acquire land or right of way. Interested parties can challenge the Technical Design by writing to the mayor, who appoints a commission to review and respond to all inputs. The minutes of the deliberation of the commission are posted and the commission either endorses the design or instructs the expropriator to modify it. Owners must provide documentation of ownership to negotiate. By law, the expropriator cannot offer an amount less than the assessed value of the property (Law 33/1994, Chapter IV, Art. 27). If the expropriator and owner agree on the compensation amount, a purchase contract is prepared and signed. The agreement becomes effective when it is ratified by the court and compensation is paid. If the two parties do not agree on a compensation amount, the expropriator or owner can submit the case for court adjudication.
3. *Adjudication*—all agreements are reviewed by the court to determine whether or they followed proper procedures fulfilling legal requirements; if so, they are ratified and the transfer is immediate upon payment. In case of a dispute over compensation, the court commissions an expert valuation and sets the level of compensation. Ownership is deemed transferred when the transaction is registered in the cadastre and compensation is paid. The

court also has the authority to sanction expropriation if owners cannot be located or ownership is disputed.

Land acquisition must be completed before a Construction License is issued, after which civil works can start.

The process can be time consuming, particularly if ownership is unclear or disputed, if owners cannot provide documentation of ownership or if owners cannot be located. Compensation for disputed lands is decided by the court and the expropriator deposits funds that are distributed once the dispute is settled. In cases where documentation is incomplete, the expropriator helps legitimate claimants acquire documents. If owners are not located, the expropriator follows a prescribed notification procedure. The law does not clearly limit the time required to complete expropriation or provide adequate guidance on how to conclude the process for complicated cases. Consequently, the expropriation process can be protracted.

Once the court ratifies the arrangement, and money is deposited in a bank account, the transfer can take place. The owners of the land that was expropriated have three years to challenge the compensation amount, but cannot reverse the court decision to transfer ownership.

Disputes over ownership are resolved through a separate process outside the scope of the Expropriation Law. The process involves the cadastre office as well as courts, which make the final determination of the validity of conflicting claims and the distribution of assets.

The Law no. 51/2006 provides for an exception to the general rules imposed by Law 33/1994 such as, a formal agreement may be issued in authentic form by the owner granting to the municipality to enter into the site and execute de works before the procedure of transferring the ownership, by means of expropriation or otherwise, including payment of money is completed.

## **C.2. Equivalence of the Romanian Applicable Law with OP/BP 4.00; Analysis of Gaps and Differences**

The expropriation system in Romania is broadly consistent with the objectives and many of the operational principles of OP/BP 4.00. However a number of the operational principles listed in Table A1 of OP 4.00 do not have specific corresponding requirements in Romania.

### **Analysis of Gaps**

There are no salient differences between Romanian expropriation laws and Table A1 of OP 4.00 in the objectives and principles 1, 3, 8, 9 and 11. Principle 10 is not relevant for the pilot projects. The principles in which there are differences are discussed below, with abbreviated titles of the respective principles. (see detailed analysis in Attachment B).



<p><b>Operational Principle 2. Provide Resettlement and Assistance to those Without Formal Legal Rights to Land.</b></p>	<p><i>Informants indicated little experience expropriating land used by people who are without use or ownership rights. The expropriation documents and Technical Design include information on household land ownership rights. Romanian law does not make specific provision to compensate people without legal rights to land, although they may be eligible to claim damages (prejudice). It is not expected that the pilot projects will encounter such situations, and Bank and Romanian authorities will establish a mechanism to address this issue. However, Romanian expropriation laws and procedures do not require a survey. The pilot projects primarily involve land acquisition not physical relocation and would not require affected persons to change occupations, for which a socio-economic survey might have some value. Therefore, this difference does not</i></p>
	<p><i>compromise the objectives or outcome of the process and this is not a significant gap that would need to be filled in order for the projects to be piloted under OP 4.00</i></p>
<p><b>Operational Principle 4. Consultation, Entitlements and Special Groups.</b></p>	<p><i>The consultation and disclosure process is adequate, although a specific resettlement document is not required. The documents prepared for the Expropriation Decision and the Technical Design can be considered reasonable proxies for the plan specified in the principle. Eligibility for compensation is based on documentation of ownership or claims for damages. Within 15 days of the completion of the Technical Design, which identifies affected persons specifically, these are notified by letter of the intent to expropriate, along with a copy of the minutes of the Expropriation Decision. Negotiation for compensation can be complicated if the land is not titled and ownership is contested, however. The estimated cost of expropriation is included in the expropriation request and refined in the Technical Design, which includes estimates of the value of each parcel. Affected persons must request compensation for "prejudice," during negotiation or in the court, if they are not satisfied with the outcome of negotiations. The process does not give special consideration to the vulnerable or excluded groups, but that difference is not considered to be significant if (a) assessed valuation is adequate and consistent and (b) people are informed of their rights and entitlements. Informants indicated little experience with the issue of illegal occupation and squatters, and this needs to be monitored closely during implementation.</i></p>
<p><b>Operational Principle 5. Inform People of Rights, Compensate and Support Transition.</b></p>	<p><i>There are no provisions that require the expropriator to inform people of their rights. If information is provided, however, it is cursory and appears to be inadequate. This is a salient divergence from the principle which could have significant impact if it results in compensation below market value and people are unaware of opportunities to contest the amount. This gap will have to be filled. Prompt payment of compensation is required, and consistent with the principle, but violations of this principle in major highway construction have been reported, thus the issue will need to be monitored closely during implementation. Property values are assessed by certified assessors. Informants indicated some discrepancies in the extent to which specific assessment reports are prepared and whether they are prepared before or after negotiations. If the reports are prepared before negotiations, they are not necessarily shared with owners, thus potentially disadvantaging them in negotiations. This is a salient divergence which will be mitigated by standardizing the timing of assessments as well as requiring them to be shared with owners at the start of negotiations. The quality and consistency of assessors appears to be subject to dispute, which undermines public confidence in the valuation process and could result in under-valuation, which would violate the principle. This divergence in practice will be mitigated. If people are adequately informed about their rights, a combination of compensation for assets and prejudice should be adequate for households to restore their assets, livelihoods and, if relevant, transition to another location. Improving the dissemination of information will help reduce the likelihood that compensation is inadequate, making the process and practice equivalent to the principle. To address the divergence in practice related to information dissemination, the letter that announces the intent to expropriate will be accompanied by a brochure that clearly describes the expropriation process and the rights of owners in the process, including the scope of prejudice. If affected persons are compensated adequately for their losses, there is land available for owners to make their own adjustments, thus the divergence from the principle of a land based strategy is not considered to be material. Special cases involving major land losses and the loss of businesses and residences would need to be managed on a case-by-case basis in consultation with the Bank.</i></p>
<p><b>Operational Principle 6. Preference for a Land Based Strategy.</b></p>	<p><i>The use of cash compensation for expropriation in Romania differs from the principle that compensation of people displaced from land-based livelihoods and expropriation should be land based. Given the complex landholding situation in Romania and the lack of availability of State land that could be traded, and given the availability of private land for purchase and open access to the land market, the current arrangement is adequate to enable affected households to pursue a land based solution on their own, if they so desire. This difference from the principle is therefore not considered to be significant.</i></p>

## **Current and Proposed Measures to Address Gaps**

Two salient gap-filling measures were explored as a means to achieve equivalence. They are as follows:

***Notify Owners of Rights and Procedures.*** An information brochure acceptable to the Bank could be prepared for each government level (national, county and local) that outlines steps in the expropriation process; discusses the valuation and negotiation processes; describes the steps in obtaining compensation for damages (prejudice), including relocation costs and assistance to address impact on livelihoods, if relevant; provides information on the rights of owners at each step of the process and avenues of recourse at each step; and advises on how owners can obtain legal assistance, if needed. The brochure could then be distributed with each letter, notifying an owner of the intent to expropriate. The practice should be specified in any guidance documents and manuals of the respective agencies.

***Monitor.*** A local independent monitor could report on expropriation activities and their impacts. The Bank will then monitor the promptness and adequacy of compensation, including prejudice, and the impacts of expropriation during regular supervision missions and recommend steps to resolve significant problems that emerge during implementation as identified by project officials and independent monitors.

## **D. Transfer of the ownership rights for land affected by the Works**

### **D.1. Measures to be undertaken before starting the expropriation process**

In view of carrying out the expropriation, in accordance with art. 4 of Law 198/2004, a Government Decision should be adopted, which would approve the works setting, the starting of the expropriation procedure for assets which represent the site, the estimated global sum for compensation, 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 municipality occurs immediately, that is at the moment when the owner is paid or is registered a fair amount for compensation, specified in the judgment 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 compensation 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 under existing law are the following:

- The public utility is declared by the effect of the law, namely Law 33/1994, for all municipal infrastructure;

- The expropriation procedure is commenced by the approval of a Government Decision, which is based on a technical-economical documentation elaborated by the Expropriator (Municipality of Bucharest or Municipality of Arad);
- The compensation for private property including land, residential or commercial assets being acquired shall be based on real market value determined by authorized experts (ANEVAR) (Art. 26), i.e. shall be equivalent to the replacement cost of those assets;
- The mitigation for prejudice incurred by land expropriation is based on the principle of restoration of livelihoods caused by any land expropriation or involuntary resettlement for municipal infrastructure;

For the purposes of this project, prejudice shall include mitigation if the declaration of public utility involves:

- Expropriation of 25% percent or more of the agricultural land owned by a person(s); or
- loss of commercial property; or
- any other form of loss of livelihoods.
- the Expropriator shall declare the amount of mitigation based on an assessment of the impact of expropriation on the livelihood of the respective affected person, and declare the process through which that mitigation shall be made effective;
- Art. 15 of the law allows for the persons dissatisfied by the prejudice amount, to appeal before a Commission constituted of Court of Appeal (Art. 20) so established under Law 33/1994;
- The transfer of the ownership to the municipality becomes effective immediately after the payment is made or the compensation are registered. Eventual litigation regarding the ownership title will not suspend the expropriation procedure.

## **D.2. Project Affected People**

The people affected by the Project are people who own or have residence or simply live without residence on the land that falls in the alignment of municipal infrastructure.

They will be identified during the design of the infrastructure, 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 district 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 compensation 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.

Subprojects involving informal users of properties (encroachers, non-registered businesses, etc.) will not be eligible for Bank financing.

No land acquisition or resettlement will be undertaken that affects more than 200 persons.

### **D.3. Responsibility and Funding**

The land acquisition process related to Project investments will be undertaken by the Municipality of Bucharest or Municipality of Arad, based on topographical surveys and expropriation plan. The Land Acquisition unit/ dept of the Municipality keeps an evidence of the steps carried out, which will be available for review during Bank supervision.

The Municipality registers the amounts representing the compensation and any prejudice for the land being acquired from an amount approved by the Municipal Council Decision for the commencement of the expropriation procedure, and pays accordingly the amount set out on the basis of the evaluation reports elaborated by the authorized experts.

The land acquisition transfer must be fully completed including payment of any compensation owed, before any work can begin on such piece of land.

### **D.4. Description of an expropriation process undertaken by the Municipality of Bucharest (similar to the process to be undertake by Municipality of Arad)**

#### 1. Government decision

The expropriation is started by approving a Government Decision, based on a technical-economical documentation elaborated by the Expropriator (Municipality of Bucharest).

#### 2. Expropriation Publicity

The plan with the works layout is made public by being posted in the Bucharest Municipality and district 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. Within 15 days from publication, the proposals for the expropriation shall be notified by letter to the physical or legal entities, titular of real rights.

#### 3. Submission of compensation requests

In connection with the expropriation proposals, the owners and titular of other real rights over the properties in discussion may make appeals in a 45 days' period after having received the notification. The request for payment of compensation with all supporting documents shall be submitted within 30 days since the Expropriation Decision entered into force, to the headquarters of Bucharest Municipality (or the district council on the territory within which the building is located).

The request shall be accompanied with all supporting documents requested by the law. The request will include the following items:

- a) The name and the surname of interested person
- b) Home address
- c) The supporting documents to proof the existence of the real right over the property to be expropriated, in original or legalized copies;
- d) The proposed value for compensation;

In case there is more than one owner interested in the property to be expropriated, the petition shall be signed by everybody, personally, or through a special mandate, and the mandate shall be attached to the petition.

#### 4. Appointment of the expropriation committee and its activity

The Municipality shall appoint, through a decision of the expropriator, a committee, without legal personality, which will analyze all the requests received and all their supporting documents, submitted according to the requirements of art. 5, will prepare a report, issue and communicate the decision regarding the compensation awarded in order to start the payment procedure or register the names of the names of persons entitled, according to the law.

The Committee is made up from 5 members, as follows:

- the mayor of the local administration unit, or in his/her absence the vice-mayor;
- a person representing the Prefecture institution;
- a person representing the Cadastre and Land Registration Office;
- 2 persons with legal background representing the expropriator.

After the members of the committee were appointed, the expropriator shall submit its decision to the General Council of Bucharest Municipality, who has the obligation to provide, through the secretary of Bucharest Municipality, the secretary of the Committee, the person in charge with registration, filing and archiving all the requests and attached documents submitted according to the provisions of the law.

The Secretary of the Committee shall keep special registers and archives, in which she/he shall register all the requests and documents in original or legalized copies. The registers will contain the minimum information, as follows:

- a) date of registration of the request;
- b) name and surname of the petitioner(s);
- c) the elements of identification of the property for which the compensation is requested, such as cadastral number, area, the local administrative unit in which the property is situated, the owner, or the beneficiary of any other right;
- d) the documents attached to the request.

Within 10 days from starting its activity, the Committee shall analyze all the requests and documents attached and, depending on each case:

- a) finds the file complete and calls the petitioner(s) in writing, using postal services, with receipt confirmation, to sign the records.
- b) Finds the file incomplete and convokes the titular (s) of the petition, in writing, through postal services, with receipt confirmation within the period foreseen by the law, to provide all the missing documents and sign the records.

The Letter of Convocation will indicate the date, hours and the location where the meeting in which the records will be signed and all the identification elements of the property to be expropriated will be presented, such as: cadastral number, the number of the land book, the value of the compensation, determined on the basis of the evaluation, and, as case might be the analysis of all the documents supporting the petition.

In case the owner of the property right, of any other real right is known – has been identified based on the land book records, or extracts from the land book, or on the cadastral records, property deed, the records of possession, on the actual possession, on agricultural registers and / or any other documents /facts which have a juridical effect according to the law – does not file a petition or does not submits the documents requested to sustain the petition, after expiry date of this obligation, the Committee will mentions this in its records, and shall decide in this respect and communicate its decision according to article 7 of the law. The amounts due as compensation will be recorded by the expropriator on the name of the person / persons identified through the procedure described above.

In case nobody submitted a petition, and the juridical – cadastral documentation required by the law was based on the documents provided by the cadastral offices and Land Registration Office and / or Local Councils of the administrative units, and from these documents the addresses of the owners of property rights cannot be identified, the Committee will record this, and decide in this respect the amount due as compensation. The notification of compensation shall be posted at the headquarters of the Local Council / Bucharest Municipality Council, and the written records of the measures taken shall be performed according to the procedure imposed by the law.

In the cases foreseen at articles (15) and (16), the person entitled has the option to file its petition in front of the expropriator, supported by all the documents required by the law, or through a final and irrevocable court decision, and to request the compensation, according to the law.

In case the interested person filed the petition, submitted all the documents within the deadline imposed by the law, and agrees with the amount proposed as compensation, a record shall be signed in this respect between this person and the Committee, and the above mentioned amount shall be mentioned. The records shall be signed by all the members of the Committee and the interested person.

In case the entitled person does not agree with the amount proposed as compensation, the Committee has the obligation to mention this in its records, and also to indicate that the entitled person has the right to address the issue in front of

the court, according to the provisions of article 21- 27 of Law no. 33/1994. The records shall be signed by the members of the Committee and the person entitled, or record shall be made on the fact that the entitled person cannot sign or refuses to do so.

In case the person has filed a petition, but failed to provide all the supporting documents proving its quality within the deadline imposed by the law, the Committee shall record this fact, and decide according to the provisions of article 7 of the Law.

In case the co-owners agree with the amount proposed as compensation, a record shall be signed between these and the members of the Committee. Based on this record, the Committee shall issue its decision, and order the payment in the account number indicated by these persons. In case the co-owner cannot indicate an account number in which the payment shall be made, based on the expropriator decision, all the amounts shall be recorded on everybody's name.

In case the co-owners does not agree with the amount proposed as compensation, or some of them do not come in front of the Committee, a record shall be signed between the present co-owners and the Committee in this respect. In case the co-owners refuse to sign the record, a special mention shall be made in this respect. Based on this record, the Committee shall issue its decision, and the amounts due shall be recorded on everybody's name.

In case the same compensation is claimed contradictory by more persons who considers themselves entitled, and between which there is a juridical file on trial, the Committee shall require the parties to produce a Certificate of Court Registry to attest the trial on going. A record shall be signed in this respect. Based on this record, the Committee shall issue its decision, and the amounts due shall be recorded on the names of the persons in dispute.

In case the owner of the right has alienated his immobile by simple trade of its title, or by the trade of its title under private signature, the Committee, together with at least one of the parties, shall draw a record in which all these aspects shall be written, and shall advise the parties to proceed with drafting the legal formalities of alienation. Based on this record, the Committee shall issue its decision and the amounts due shall be recorded on the names of the parties.

In all the cases mentioned above, the records shall be registered in a unique numbered and sealed register. The original copies of the records are attached to the decision awarding the compensation.

In case that, following, an identification process, it is found out that the owner of the property right is deceased, and the inheritance procedure has not been opened, or when the Committee is addressed by a person having the quality of inheritor of the deceased, but does not have a Certificate in this respect, the Committee shall mention this in its records, and an empowered representative of the expropriator, in its quality of interested party shall require the opening of the inheritance procedure in front of the notary in the territory of the last address on the deceased.

The amounts due as compensation shall be recorded on the names of the presumed inheritors, with the mention that the amount shall be part of the chart of heirs. This

amount shall be disposed on the expropriator request, based on the Certificate of Inheritance or on a final and irrevocable court decision.

In case the inheritance procedure has already been opened, the expropriator shall follow the procedure as described in article 27.

In case that, following an identification process, it is found out that the owner of the property right is deceased, and the presumed inheritors cannot be known or identified, the amount proposed as compensation shall be record on the name of the public notary who has been requested to open the inheritance procedure, with the mention that the amount shall be part of the chart of heirs. The amount shall be recorded until the presumed inheritors are decided, and then the procedure shall follow the provisions set in the second part of article (27), or until the deadline for declaring the Inheritance Vacant has been met.

In all the cases, the Committee shall issue a decision regarding compensation within 2 days from drawing date of the record, which shall comprise the following information:

- a) issuance date and the members of the Committee;
- b) the elements of identification of the estate: county, city, cadastral number, land registry number, area, and name of the owner / titular;
- c) identification data of the titular of the petition, in case there is a petition, name and surname of the persons entitled to be awarded the compensation or the mention that no request has been filed according to the provisions of article 5 of the law;
- d) agreement or disagreement of the persons entitled to receive the compensation regarding the amounts proposed, written in the records, or the mention that the persons refused to present themselves in front of the Committee;
- e) the value of compensation and the payment method;
- f) the documents based on which the decision has been issued;
- g) the conclusions drawn and the legal provisions applied;
- h) the means of appeal against the decision and the period in which can be used.

The decision shall be communicated in original to the titular of the petition and can be consulted at the headquarters of the expropriator.

In case that, according to the Committee decision, the Expropriator records the compensation in an account number, a copy of the decision will be communicated also the bank were the account number is opened.

##### 5. Assessment procedure before awarding the compensation

Within 5 days since the Expropriation 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 judgment regarding the



amount of compensation, 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 compensation payment.

In case of incomplete documentation regarding the quality of the ownership holder (or of other real rights), upon request made by the committee, the compensation claimer is obliged to complete the submitted documentation within 30 days. Otherwise, the committee will register the compensation 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.

#### 6. Payment/registration of the compensation 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 compensation . The transfer of ownership operates upon payment/registration.

In case of cash payment, the persons entitled shall present to expropriator residence or in other place indicated by this, in order to receive the compensation. The cash payment of compensation shall be done on the basis of document identification and committee decision, in original or legalized copy.

In case that there is many persons entitled to receive compensation, the cash payment shall be done to all real rights titular or to their authorized agents by authentic and special proxy who shall sign for receiving. Many persons can be represented by one authorized agent.

The registering of compensation shall be done by the expropriator to banks, according the following procedure:

- (a) in case that exist only one titular of real rights, who's right is recognized by the committee constituted by the expropriator, the expropriator shall register the compensation on this name;
- (b) in case that exist many titular of real rights which not agreed regarding the compensation, the expropriator shall register the compensation on everyone's name. On demand of expropriator, the bank shall remit the compensation to the persons who proved the real right in front of expropriator, on the grounds of definitive and irrevocable judgment sentence or on the ground of other authentic act whereby legalize the agreement of all real rights titular, regarding the ratio/proportion of compensation to be do to each of them;
- (c) in case that exist many persons who claim contradictorily a real right, the expropriator shall register the compensation on the name of every parts found in litigation. On expropriator demand, the bank shall remit the compensation to the person who prove the real right on the grounds of definitive and irrevocable judgment sentence;
- (d) in case that the one titular or one/some of titular of real rights is/are deceased and the inheritance procedure was opened, the expropriator shall register the compensation into account of succession in the account opened on the notary name who has been requested to open the inheritance procedure, with the mention that the amount represents a

compensation according to the law. This amount shall be disposed on the expropriator request, based on the Certificate of Inheritance or on a final and irrevocable court decision.

- (e) In case that the single titular or one/ some of the titular of the real right has/have deceased and the inheritance procedure has not been opened, the expropriator will require the opening of this procedure. In this case the procedure of establishing and awarding the compensation is the one described in letter d) above.

At the expropriator request, the bank shall open account on the names of the persons expropriated, based on the information sent by the expropriator regarding the names of the persons, elements of identification of the estate, such as cadastral number, and land registry number. The bank shall pay the amounts following the expropriator's request, to the person indicated by this.

#### 7. Appeal in front of the court

The petitions in front of the juridical court, according to art. 9, shall be addressed to the Tribunal in whose area the property making the object of the cause is situated. The causes having as object the petitions filed according to art. 9 of the law are judged in contradictory with the expropriator.

#### 8. Transfer of the land in public property

The proof of transfer of the land from the private property to the public property of the Bucharest Municipality, and then in the administration of the Bucharest Municipality is the Committee decision, issued according to these norms, and at least one of the following documents:

- a) the copy of the transfer order of the compensation in the account of the holder/holders of the real rights, in case on bank account transfer;
- b) the deed issued by the public notary in whose office it has been opened the procedure of inheritance by the expropriator, and the proof of compensation registration, according to legal provisions;
- c) the proof of registration of the compensation in a bank unit.

The expropriator enters into the possession of the land expropriated within 5 calendar days from the payment date, of from the date the compensation has been recorded.

The Expropriator can enter into the possession of land affected by buildings having the initial destination as homes within 10 days from the date in which the payment obligation has been fulfilled.

The registration of the public property right, and its subsequent administration right shall be based on the provisions of Law no .7 / 1996 regarding the Cadastre and Land registration, republished, in special registries opened in Land Registry Offices.

#### 9. Starting Works.

The Municipality will issue a construction permit to begin civil works after registration of the ownership title over the expropriated land.

## 10. Procedure for Administrative Dispute

The expropriated person unsatisfied by the amount of the compensation, as well as any other person who considers herself entitled to receive compensation for the expropriation of the building, may address the competent law court within 3 years since the date of entering into force of the Expropriation Decision for starting the expropriation procedure, or within 15 days since the date of notification of the committee's decision by which the compensation 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 compensation 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 municipality representative, one from the Tribunal and one on behalf of the owner(s). The committee makes an individual assessment of the compensation and of compensation, compares the results with the offers made by the relevant municipality 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 judgment 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 concerned municipality 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 municipality obtain another dwelling to trade. Renters are transferred to other rental properties on the expenses of the MOB.

\*\*The procedures outlined above are similar to those undertaken by Municipality of Arad as they are governed by national legislation, and for purposes of this LAPF will be followed by both municipalities.

### **E. Compliance with OP/BP 4.12, Involuntary Resettlement**

The procedures described above are in full compliance with the objectives of OP 4.12:

- the process is transparent and public;
- compensation for land and other assets acquired is fair, being at the replacement cost of affected assets, and paid prior to physical expropriation;
- mitigation for loss of livelihoods (prejudice) is based on the principle of restoration of livelihoods; the law allows for the persons dissatisfied by the prejudice amount, to go to law court
- the entire process is documented.

For purposes of compliance, for each 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 Bank for review and No Objection. Until the expropriation process is fully completed in a site, the respective Plan will be updated every three months, and the municipality project management unit (PMU) will report to the Bank every 6 months on the status of land acquisition under the project.

## F. Eligibility and Entitlements

The following entitlement matrix describes the eligibility for compensation and/or assistance for impacts/losses for different types of assets and categories of project affected persons.

Table 1: ENTITLEMENT MATRIX

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
AGRICULTURAL LAND/ MEADOW LAND	<ul style="list-style-type: none"> <li>• Less than 70% of land holding affected,</li> <li>• The remaining land remains economically viable</li> </ul>	Owner/title holder	<ul style="list-style-type: none"> <li>• Cash compensation for affected land that it is equal to the replacement cost of the lost asset</li> </ul>
		User of land without title	<ul style="list-style-type: none"> <li>• Rehabilitation assistance such as job placement, skills training and/or use of alternative land/property to re-establish use such as grazing</li> </ul>
	<ul style="list-style-type: none"> <li>• More than 70% of land holding affected and remaining land is not viable</li> </ul>	Owner/title holder	<ul style="list-style-type: none"> <li>• Cash compensation for the assets at their replacement value plus assistance comprising costs of shifting, allowance until first harvest, cash compensation, job placement, or job training, transition allowance etc.</li> </ul>

ASSET ACQUIRED	TYPE OF IMPACT	ENTITLED PERSON	COMPENSATION ENTITLEMENT
		User of land without title	<ul style="list-style-type: none"> <li>Rehabilitation assistance such as job placement, skills training and/or use of alternative land/property to re-establish use such as grazing</li> </ul>
BUILDINGS	Entire structure affected		<ul style="list-style-type: none"> <li>Cash compensation for entire structure and other fixed assets without depreciation</li> <li>Right to salvage materials without deduction from compensation</li> <li>Rehabilitation assistance if required (assistance with job placement, skills training)</li> </ul>
STANDING CROPS	Crops affected by land acquisition or temporary acquisition or easement	Owner	<ul style="list-style-type: none"> <li>Cash compensation equivalent to the market value for the affected crops</li> </ul>
TREES	Trees lost	Owner	<ul style="list-style-type: none"> <li>Cash compensation based on type, age and productive value of affected trees</li> </ul>
TEMPORARY ACQUISITION	Temporary acquisition	Owner	<ul style="list-style-type: none"> <li>Cash compensation for any assets affected (e.g. boundary wall demolished, trees removed)</li> </ul>
LAND	Bans and restrictions on activities in affected area	Owner	<ul style="list-style-type: none"> <li>Compensation for loss of assets at replacement cost</li> <li>Cash compensation for loss of income</li> </ul>
		User of land without title	<ul style="list-style-type: none"> <li>Rehabilitation assistance such as job placement, skills training and/or use of alternative land/property to re-establish use such as grazing</li> </ul>

**Land Acquisition  
Reporting Format**

The Municipality PMU will report to the Bank every 6 months on the status of land acquisition under the project.

The reporting format to the Bank will be:

Date of Report \_\_\_\_\_

<b>Name of Sub-project</b>	<b>Transaction Information</b>	<b>Physical Relocation of Property Owners?</b>	<b>Any Tenants or Informal Users Affected?</b>	<b>Status of Land Acquisition</b>	<b>Comments</b>
Investment name	Size of land; Assessed price; Negotiated price; Actual price paid; Transfer date			Factual reporting on: - the need for LA, - the status of the LA process such as: under negotiations, concluded (date), awaiting court judgment, under appeal	

## **Attachment A**

### **LAW No. 33 of MAY 27<sup>th</sup> 1994 - Expropriation for the Purpose of Public Utility**

**ISSUER: THE PARLIAMENT OF ROMANIA;** Published in the National Gazette of Romania No. 139 of July 2<sup>nd</sup> 1994

The Parliament of Romania adopts the present law.

For the purpose of some works meant for public utility and keeping in mind the exceptional character conferred to conceding by means of expropriation of the private property by the Constitution of Romania and by the Civil Code, right whose protection is actually accomplished by its being granted and protected the law equally, irrespective of the titular, the present law is adopted. It consists of provisions meant to grant both the legal framework adequate to expropriation and the establishment of compensations and the protection of the right to private property.

#### CHAPTER 1

##### General provisions

##### ART. 1

Expropriation of properties, totally or partially, may be done only for the cause of civil service, after a right and former compensation, by means of legal decision.

##### ART. 2

Expropriated may be properties owned by physical or legal entities, with or without operational objects of activity, as well as those privately owned by communes, towns, municipalities or counties.

##### ART. 3

Competent courts shall decide upon expropriation only after the public utility has been declared according to the present law.

##### ART. 4

Those interested may convene upon the way of transfer of the right of property, as well as upon the quantum and the nature of the compensation, with the observance of the legal provisions regarding the content, form and publicity conditions, without starting the expropriation procedure provided for by the present law.

In the case when the volition agreement of the party regards only the way of transfer of the property right, but not the quantum or the nature of the compensation, the courts shall take note of the understanding of the parties, and

they shall establish only the quantum or the nature of the compensation, according to chapter IV of the present law.

## CHAPTER 2

Public utility and its being declared

### ART. 5

Public utility is declared for operations of national or local interest.

### ART. 6

The following operations are of public utility: geological prospecting and exploring; extraction and processing of useful mineral substances; installations for electric power production; communication routes, opening, aligning and widening streets; systems providing electric power, telecommunications, gas, thermal power, water sewerage; installations for environmental protection; installations for embanking, regularizations of rivers, dams for water sources and attenuation of freshets; derivations of debits for water supply and for freshets deviations; hydro-meteorological, seismic stations and systems warning and preventing dangerous natural phenomena and systems warning the population, irrigation and draining systems; operations combating deep erosion; properties and properties necessary for social care, public administration and court headquarters; safeguarding, protecting and valuing monuments, historic ensembles and sites, as well as national parks, natural reservations natural monuments; preventing and eliminating the follow-ups of natural disasters – earthquakes, floods, land slides; defense of the country, public order and national security.

### ART. 7

The Government, in the case of national interest operations, and the county councils and the Local Council of the Municipality of Bucharest, in the case of local interest operations, shall declare the public utility.

For the local interest operations developing on the territory of several counties, a commission consisting of the presidents of the respective local councils shall declare public utility. In cases of disagreement, the Government may declare the public utility.

For operations, other than the ones provided for in Art. 6, public utility shall be declared for each case, by means of law.

It is also by law that public utility may be declared in exceptional situations, in the case when – irrespective of the operations – cult sites, monuments, historic ensembles and sites, cemeteries, and other locations of special national value, urban or rural locations are subject o expropriation.

### ART. 8



Declaring public utility may be done only after a preliminary investigation and under conditions of registering the operation in the urban planning and land planning, approved according to the law, for localities or areas where the execution is intended.

#### ART. 9

Commissions nominated by the Government shall accomplish the preliminary investigation for the operations of national interest and commissions nominated by the permanent delegation of the county council or by the Mayor General of the municipality of Bucharest shall accomplish the preliminary investigations for operations of local interest.

The commissions nominated by the Government, for operations of national interest, shall consist of: the representative of the central public administration coordinating the field of activity for which the public utility operation takes place, the representative of the Ministry of Public Works and Land planning, the representative of the Ministry of Finance, the president of the county council and chiefs of departments involved, as well as the mayors of the localities where the public utility operation develops.

The commissions for operations of local interest shall consist of: the representative of the county council or of the Local Council of the Municipality of Bucharest, as well as representatives of the interested local councils.

The working procedures of the commissions for the preliminary investigations shall be established by means of regulations approved by the Government.

#### ART. 10

The preliminary investigations shall establish the existence of elements justifying the national or local interest, the economic, social, economic advantages or those of any other type, supporting the need of operations that cannot be accomplished by any other means than expropriation, as well as the meeting of the urbanism and land planning plans, approved according to the law.

The results of the preliminary investigations shall be registered in minutes that shall be submitted to the Government or to the county council, respective to the Local council of the municipality of Bucharest, accordingly.

#### ART. 11

The document declaring the public utility of national interest shall be made public by means of posting it up at the headquarters of the local council on whose territory the respective property is located and by publishing it in the National Gazette of Romania, and the document declaring the public utility of local interest shall be posted at the headquarters of the local council on whose territory the respective property is located and it shall be published in the local media.

Documents through which the public utility for operations regarding the country's defense and the national security shall not be published.

### CHAPTER 3

#### Measures preliminary to expropriation

##### ART. 12

After having declared the public utility, the expropriated shall produce plans consisting of the lands and the constructions to be expropriated, indicating also the names of the owners, as well as the compensation offers. These documents shall be deposited at the local council of the commune, town or municipality on whose territory the properties, subject to the expropriation approval, are located, with the view to being consulted by the interested ones. Excepted shall be the documents regarding the country's defense and the national security. In such cases, it is only the list consisting of the properties proposed to be expropriated, their owners and the compensation offers that shall be deposited at the local council.

##### ART. 13

The proposals for the expropriation and the minutes provided for in Art. 10, paragraph (2) shall be notified to the physical or legal entities, titular of real rights, a 15 days' period since the publishing.

##### ART. 14

In connection with the expropriation proposals, the owners and titular of other real rights over the properties in discussion may make appeals in a 45 days' period after having received the notification. The appeal shall be deposited with the mayor of the commune, town or municipality on whose territory the property is located.

The mayor shall receive and register the appeal and put down the owners' offers for compensations as well as their requests or those of the persons titular of other real rights. In a 30 days' period, the whole file, consisting of all the documents provided for in Art. 12, as well as the event of the appeal, shall be submitted to the General Secretariat of the Government, for operations of national interest, and the ones of local interest shall be submitted to the local councils or to the Local Council of the Municipality of Bucharest, accordingly.

##### ART. 15

Appeals shall be solved in a 30 days' period by a commission constituted by means of Governmental decision for the operations of national interest, and by means of the decision of the permanent delegation of the county council or by the instruction of the mayor of the municipality of Bucharest for those operations of local interest.

The commission shall consist of 3 experts in the field of activity the operation of public activity shall be accomplished for, 3 property owners of the municipality, town or commune in which the expropriation properties are located, selected by means of

drawing of lots of a minimum of 25 owners, as well as by the mayor of the locality. The commission shall work under the management of a delegate of the Government, in the case of operations of national interest, or of a delegate of the county council or of the Local Council of the Municipality of Bucharest, in the case of operations of local interest, in the capacity as president.

Members of the commissions may not be the property owners in discussion, neither relatives of theirs up the fourth degree included, nor persons having capacities in the local or central public administration nor persons having interest in the execution of the operations, nor members of the commission having declared the public utility.

#### ART. 16

The commission constituted according to Art. 15 validly work in the presence of at least 5 of its members. The decision of the commission shall be taken by means of ballot. The president does not have a voting right, since he/she ensures the organizational framework of the activity of the commission. In case of parity, the mayor's vote shall be preponderant.

#### ART. 17

The commission shall analyze the displayed documentation, interviewing the interested ones, having the right to ask for supplementary information and data, on the request of those having appealed to the commission or ex officio. The expropriator's offer, owner's claims or of those titular of any other legal rights, as well as their back-ups shall be formulated in writing and shall be deposited, being also mentioned in minutes.

#### ART. 18

After deliberations, the commission may accept or reject the point of view of the expropriator and they shall mention this in a motivated decision.

The commission will record, if the case, the understanding between the parties, under their signature. The decision shall be communicated to the parties in a 15 days' period since its adoption.

#### ART. 19

In the case when the commission rejects the expropriator's proposals, the latter shall have the possibility to come back with new proposals, with the corresponding new plans.

The new proposals shall follow the procedure already established in the present chapter.

#### ART. 20

In the case when the new proposals are rejected, then the expropriator, as well as the owners or the other persons titular of real rights on the property proposed for expropriation may contest the decision of the commission, constituted according to Art. 15 at the Court of Appeal responsible for the territory where he expropriated property is located, in a 15 days' period after the communication of the decision, according to the provisions of the Law no. 29/1990, on the administrative contentious.

Any appeal is free of any fee and it shall mainly be solved under emergency state mainly.

#### CHAPTER 4

##### Expropriation and compensation settlement

###### ART. 21

Expropriation requests shall be solved by the County Courts or by the Court of the Municipality of Bucharest, according to the location of the property proposed for expropriation.

The court shall be notified by the expropriator in order to pronounce an opinion in connection with the expropriation, in the case when no objection has been deposited in connection with the expropriation or in the case when this appeal route has been rejected under the circumstances of Art.18 and 20.

###### ART. 22

The President of the Court shall decide on a term and shall order summoning the owners, the possessors, other persons titular of real rights or any other known persons that can justify a legitimate interest over the properties proposed for expropriation.

###### ART. 23

The request of expropriation shall be solved with the obligatory participation of the Prosecutor. The court shall verify whether all the legal conditions are met for expropriation and it shall establish the quantum of compensations and the amount due to each and every party provided for in Art. 22. The decision is subject to appeal routes provided for by the law.

###### ART. 24

In the case when the parties reach an understanding in connection with the expropriation and the compensations in the court, the latter shall take note and shall pronounce a final decision.

When the parties or only part of them reach an understanding only in connection with the expropriation, but not in connection with the compensations, the court shall take note about the understanding and shall decide upon the compensations.

In the case when one or several parts titular of rights on properties do not show at the court, though legally summoned, then the court shall decide in their absence.

In the case when the expropriator requests only part of the property, land or building, and the owner requests total expropriation, the court shall decide, depending on the real situation, whether the partial expropriation is possible. If not, total expropriation shall be decided.

#### **ART. 25**

**In order to establish the compensations, the court shall constitute a commission consisting of an expert nominated by the court, one nominated by the expropriator and one nominated by the persons subject to expropriation.**

#### **ART. 26**

**The compensation consists of the real value of the property and of the prejudice caused to the owner or other persons set to rights.**

**When calculating the quantum of the compensations, the experts, as well as the court, shall take into consideration the prices the properties of the same type in the administratively territorial units currently have, on the date of the expertise report, as well as the compensation brought to the owner or, accordingly, to other persons in due right, taking into consideration the proofs presented thereto.**

**Experts shall list the compensations due to the owner and those due to other persons, titular of real rights.**

In the case of partial expropriation, if the part of property left un-expropriated will gain added value consequently to the operations implemented, experts, keeping in mind the provisions of the former paragraph, shall have the possibility to suggest a certain reduction of the compensations to the court.

#### **ART. 27**

On receiving the results of the expertise, the court shall compare them with the requests formulated by the parties and shall take a decision.

The compensations granted by the court shall not be smaller than the one offered by the expropriator and neither larger than the one requested by the expropriated or by the interested person.

#### **ART. 28**

The transfer of the right of property over the goods subject to expropriation in the expropriator's patrimony shall take place immediately having fulfilled the obligations decided upon by the court.

The mortgage and the privilege shall rightfully pass over the established compensations, the provisions of Art. 22 remaining applicable, and he servitudes by man's deeds shall no longer exist, in the measure they become incompatible with the natural and legal situation of he objective intended by means of expropriation, the obligatory relationships between the former and the new owner of the property being subject to common law.

The use, the life interest, the habitation and the superficies and any other real rights, as well as the lease and the forwarding to use shall be stopped by means of the effect of expropriation, the titular persons having the right to compensations.

The expropriation decision shall be established keeping in mind the provisions of Art. 26, for real rights provided for in paragraph 3.

#### ART. 29

Any location shall lawfully stop on the date of its final expropriation decision.

In the case of expropriation of a building for habitation, the evacuation of the persons occupying the building legally, in their capacity as owner and of the tenant, whose tenant contract has been legally drawn, before registering the building in the urban and land planning plans, shall be possible only after the expropriator having granted a habitation, according to the law, on the request of these persons, in the ways provided for by the legal decision of expropriation, with the observance of the provisions of Art. 26.

#### CHAPTER 5

Payment of compensations and putting into possession of the expropriator

#### ART. 30

Payment of compensations shall be done in any way convened upon by the parties; in lack of an agreement of the parties, the court shall decide, establishing the payment term, that will not be lager than 30 days, after the date of the final decision.

#### ART. 31

The execution document issuance and the putting into possession of the expropriator shall be done only on the basis of a decision of the court, notifying the accomplishment of the obligations regarding the compensations, no later than 30 days after the date of the payment.

The putting into possession for cultivated lands or of those with plantations shall be done only after having gathered the crops, except for the cases when the value of the compensation includes also an estimate value of the un-gathered crops.

#### ART. 32

In cases of extreme emergency, imposed by the immediate execution of some operations important for the defense of the country, of the public order and the national security, and in cases of national disasters, the court, taking note about the fact that the public utility has been declared, may order the immediate putting into possession of the expropriator, with the obligation to register, in a 30 days' period, the amounts established for compensations, according to the procedures provided for.

#### ART. 33

In situations when there are privileged creditors or any other type of creditors established by means of court decision, they shall be paid from the rights of compensations. For their payments, the expropriator shall register the amounts, and they shall be distributed according to the civil sentence.

### CHAPTER 6

#### The right to use and retrocede

#### ART. 34

If the expropriated property is offered to lease before its use for the purpose of its expropriation, and the expropriator is in the position to use it, the expropriator has the prior right to become tenant according to the law.

#### ART. 35

If the expropriated goods have not been used in a one-year's period according to the purpose they have been taken from the expropriated, that is the operations have not started yet, the former owners may request for the property to be retroceded, unless a new declaration of public utility has been drawn.

#### ART. 36

The request for retroceding shall be addressed to the court, which shall order the retroceding, after having checked its accuracy.

In such a situation, the price of the property shall be established as in the situation of the expropriation and it may not be larger than the up-dated compensations.

#### ART. 37

In the case when the operations, for which the expropriation was done, have not been accomplished, and the expropriator wishes to alienate the property, the expropriated former owner has a prior right to obtaining it at a price that should not be larger than the updated compensation. To this purpose, the expropriator shall notify the former owner in writing, and if he later does not wish to purchase the property back or if he/she does not answer the notification in a 60 days' period after having received the notification, the expropriator may use the property the way he wishes.

## CHAPTER 7

### Final provisions

#### ART. 38

All expenses for the accomplishment of the expropriation and retro ceding procedures, those for the court included, shall be in the charge of the expropriator.

#### ART. 39

The plans due to be executed, according to the provisions of Art. 12 of the present law, by the expropriator shall be advised by the territorial cadastre offices, for authentication and non-changing, for each and every case.

#### ART. 40

The provisions of the present law shall be completed with the ones of the Civil Code and those of the Code for Civil Procedure, in that measure in which they are not contrary to the present law.

#### ART. 41

The Decree of the State Council no. 467/1979 regarding the evaluation of buildings, lands and plantations that are to be taken in the State ownership by means of expropriation and of other cases provided for by the law, published in the National Gazette of Romania no.3 of January 4<sup>th</sup> 1980, as well as any other contrary dispositions shall be abrogated.

The present law has been adopted by the Senate in its meeting of April 28<sup>th</sup> 1994, with the observance of the provisions of Art. 74, paragraph (1) of the Constitution of Romania.

PRESIDENT OF THE SENATE professor dr. OLIVIU GHERMAN

The present law has been adopted by the Chamber of Deputies in its meeting of May 3<sup>rd</sup> 1994, with the observance of the provisions of Art. 74, paragraph (1) of the Constitution of Romania.

PRESIDENT OF THE CHAMBER OF DEPUTIES ADRIAN NASTASE



## **Attachment B**

### **Equivalence of the Romanian Applicable Law with OP/BP 4.12**

The similarities and differences between principles in OP/BP 4.12 and Romanian legal requirements and practices are highlighted below.

<b>OBJECTIVE</b>	
<p><b>OP/BP 4.12 Objective:</b> To avoid or minimize involuntary resettlement and, where this is not feasible, to assist displaced persons in improving or at least restoring their livelihoods and standards of living in real terms relative to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.</p>	<p><b>Romanian Law :</b> The Romanian Constitution protects private property and provides that "nobody may be expropriated unless for a cause of public use, established according to law, subject to a fair and prior compensation" (Art. 44, para.3.6).</p> <p>These provisions were further elaborated in the Expropriation Law (Law 33/1994) and Government Resolution 583/1994, which establish a standard that applies to all levels of government. Each act of expropriation is based on a request for an expropriation decision, which must justify "the national or local interest, the economical-social, environmental or any other kind of advantages that justify the necessary character of works and could not be carried out except by means of expropriation (Art. 10 Expropriation Law).</p> <p>The Expropriation Law is based on the assumption that compensation at market value and "prejudice" (real value of the premises and the prejudice caused to the owner or other entitled persons (Art. 26, Expropriation Law) should be adequate to enable the affected people to maintain the value of their assets and, if relevant, to re-establish themselves under similar circumstances.</p> <p>Article 26 of the Expropriation Law loosely characterizes prejudice as "damages caused to the owner or, if the case may be, to other entitled persons, also considering the justification submitted by them." The Civil Code defines prejudice as "damage effectively suffered and unrealized benefits." Expropriation cancels tenancy agreements and the tenants are "entitled to compensation" (Art. 28, Expropriation Law). It appears that prejudice thus covers impacts on income and livelihoods beyond the cost of affected assets, including impacts on third parties.</p>

<b>OP/BP 4.12 Operation Principles</b>	<b>Romanian Law</b>
<p><b>Operational Principle 1.</b> Assess all viable alternative project designs to avoid, where feasible, or minimize involuntary resettlement</p>	<p>Article 10 of the Expropriation Law requires a project proponent/expropriator to justify the need for expropriation and to demonstrate that the investment cannot occur without expropriation. A commission (at national, county or local level) is set up to review each proposal, obtain technical inputs from government agencies and inputs from interest parties, and recommend an expropriation decision or return the proposal to the project proponent. Various agencies and ministries also append specific requirements that must be fulfilled in the Technical Design. The process is essentially repeated when the Technical Design is completed and affected persons are identified.</p>
<p><b>Operational Principle 2.</b> Through census and socio-economic surveys of the affected population, identify, assess, and address the potential economic and social impacts of the project that are caused by involuntary taking of</p>	<p>The Expropriation Law does not require a baseline census or socio-economic survey. The expropriation request must identify economic and social benefits of the investment, however, and the Technical Design includes detailed information about land ownership and use (confirmed by the Cadastre Office) and estimated value of the land to be expropriated (Art. 12, Expropriation Law). This constitutes a de facto household census. Cases involving physical relocation and loss of access to assets are identified through the process of collecting information for</p>

<p>land (e.g. relocation or loss of shelter, loss of assets or access to assets, loss of income sources or means of livelihood, whether or not the affected person must move to another location) or involuntary restriction of access to legally designated parks and protected areas.</p>	<p>the Technical Design. The loss of income sources or means of livelihood and transition costs can be included in calculations of compensation for "prejudice," but they must be claimed by the owner or other affected person. No socio-economic surveys are required for expropriation.</p>
<p><b>Operational Principle 3.</b> Identify and address impacts also if they result from other activities that are (a) directly and significantly related to the proposed project, (b) necessary to achieve its objectives, and (c) carried out or planned to be carried out contemporaneously with the project.</p>	<p>Legal expropriation standards and procedures and compensation standards apply equally to all aspects of an investment</p>
<p><b>Operational Principle 4.</b> Consult project-affected persons, host communities and local nongovernmental organizations, as appropriate. Provide them opportunities to participate in the planning, implementation, and monitoring of the resettlement program, especially in the process of developing and implementing the procedures for determining eligibility for compensation benefits and development assistance (as documented in a resettlement plan), and for establishing appropriate and accessible grievance mechanisms. Pay particular attention to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly, women and children, Indigenous Peoples, ethnic minorities, or other displaced persons who may not be protected through national land compensation legislation.</p>	<p>Investments must be embedded in urban or regional spatial plans, which are adopted and revised through open meetings. Documentation related to justifying an investment and implementing it, to obtain a Location Permit and then Construction License, must be posted in County and Local Councils, offices of the expropriator, the official gazette and local newspapers. The documentation constitutes both expropriation and construction plans, owners and proposed compensation. The documentation prepared to request an expropriation decision and to obtain a Location Permit, is reviewed by officials from different agencies. The process is relatively open, although no public meetings are required. Affected persons are not specifically contacted at this point, but they and all other interested parties have access to officials to discuss various aspects directly or submit written questions or objections, which are considered in making the decision. Once the Location Permit is issued, the Technical Design is completed and posted in the country or local government offices, as well as the office of the expropriator. Interested parties who have questions or objections can express their reservations in writing to the mayor or head of the county, who establishes a commission to review and address each petition and consult with interested parties. These consultations can lead to revisions of the Technical Design. Although there are no resettlement plans, as such, the documentation for the expropriation decision and the Technical Design can be seen as a reasonable proxy for a land acquisition or resettlement plan, especially since the system is almost exclusively based on paying cash compensation to affected persons for lost assets and opportunities. Grievance mechanisms exist at successive stages in preparation and design of the investment. Prior to the issue of the Location Permit and completion of the Technical Design, interested parties can address their concerns regarding location, alignments and the scope of expropriation to agencies involved in the decision-making process, the mayor, and negotiation representatives of the expropriator (Art. 12-19 Expropriation Law). Expropriation must be concluded before the Construction License is issued. Once that occurs, affected persons can challenge the level of compensation in the courts, but cannot reverse the expropriation</p>

	<p><i>process. There are no regular mechanisms for public participation in monitoring the implementation of the investment and the impact of expropriation, although controversial projects are generally actively scrutinized by the press.</i></p> <p><i>Eligibility for compensation is consistent and straightforward, including owners, tenants and other individuals who occupy land to be expropriated (Art. 28 Expropriation Law). Tenants are compensated for damages and illegal occupiers can claim compensation for the loss of above ground assets (Art. 29 Expropriation Law) ("value-added").</i></p> <p><i>There are no special provisions for the vulnerable, minorities or others and, with the exception of squatters, there appear to be no displaced persons or minorities who are not protected through national land compensation legislation.</i></p>
<p><b>Operational Principle 5.</b>  <i>Inform displaced persons of their rights, consult them on options, and provide them with technically and economically feasible resettlement alternatives and needed assistance, including (a) prompt compensation at full replacement cost for loss of assets attributable to the project; (b) if there is relocation, assistance during relocation, and residual housing, or housing sites, or agricultural sites of equivalent potential, as required; (c) transitional support and development assistance, such as land preparation, credit facilities, training or job opportunities as required, in addition to compensation measures; (d) cash compensation for land when the impact of land acquisition on livelihoods is minor; and (e) provision of civic infrastructure and community services as required.</i></p>	<p><i>Owners are notified by letter of the intent to expropriate, which includes a copy of the minutes of the expropriation decision. Since compensation is in cash, affected people are not given different options; rather, it is assumed that they can use the compensation to choose their own options.</i></p> <p><i>(a) Land acquisition must be completed—compensation must be paid and titles transferred—before a Construction License is issued for the investment. Compensation must be paid within 30 days of court judgments. Compensation is at market value, plus prejudice, which is considered sufficient to replace assets and restore incomes, and therefore equivalent to replacement cost. Occupants without legal titles to affected land can be compensated for their lost above-ground assets, expressed as "value added." Affected persons and third parties who seek compensation for prejudice must present their cases to negotiators or the court. Crop loss is the only form of damage that is explicitly stated in the law; claims for other losses must be documented by affected persons on a case-by-case basis. They must claim compensation as "prejudice."</i></p> <p><i>(b) Residences are rarely affected. If they are, the residents of expropriated properties move to housing arranged by themselves, following negotiation, compensation and the transfer of titles. If they ultimately need to be evicted, the expropriator must provide another "dwelling space, in conformity with the law" (Art. 29 Expropriation Law). Tenants and illegal occupants of expropriated residences, even more rare, will be provided with acceptable alternative housing to which to move (Art. 29 Expropriation Law).</i></p> <p><i>(c) Relocation costs will be included in compensation for "prejudice." Owners and others who have cause must make the claim for damages during the negotiation process or, in court, if their claim is not resolved to their satisfaction. The court renders final decisions on compensation levels that are under question. In the absence of strict guidelines, "prejudice" can cover a range of impacts, but it is up to the claimant to make the case.</i></p> <p><i>(d) Cash compensation is the norm. If most of a parcel is subject to expropriation, and the remainder is not viable or without value, the owner can appeal to have the whole parcel expropriated (Art. 24 Expropriation Law).</i></p> <p><i>(e) No community-wide involuntary physical relocation that would require the development of new urban infrastructure and services is envisioned under the pilot projects. The expropriation law will apply to all expropriation related to project investments. In the unlikely event that an investment entails the relocation of individual households, people would move to residences with appropriate infrastructure and community services, rather than to green field sites.</i></p>

<p><b>Operational Principle 6.</b> Give preference to land-based resettlement strategies for displaced persons whose livelihoods are land-based.</p>	<p>Expropriation laws and procedures are based on cash compensation at market rate, which is assumed to enable owners to purchase land to replace the expropriated land. Land replacement is not prohibited by the law, but it is not expected and it would be impractical in the Romanian context to make administered land substitution a standard policy, given limited amounts of state land and the prevalence of ownership issues related to re-privatization and restitution of previously nationalized lands. Land can be bought and sold freely in urban and rural areas. The rural land market is open, but it is not really active, as sales are very limited. All informants claim that owners are generally amenable to sell land and buyers can find land easily. Reportedly, those who lose land to expropriation can readily purchase alternative land from others who would like to sell. Consequently, as the land market is open and active on the supply side, affected persons use the market for land and housing, if needed, and there is sufficient supply of land and housing, a land-based expropriation strategy is not necessary. Municipalities and local self-government authorities may own land that can be sold and/or exchanged to owners of expropriated land on a case-by case basis. When this occurs, if the alternative plot is either more valuable or less valuable than the expropriated land, the difference is settled in cash.</p>
<p><b>Operational Principle 7.</b> For those without formal legal rights to lands or claims to such land that could be recognized under the laws of the country, provide resettlement assistance in lieu of compensation for land to help improve or at least restore their livelihoods.</p>	<p>The expropriator/project developer advises owners about the registration process for unregistered lands. This is a mutual interest, as lands have to be registered to be purchased. People who have been using state land for 30 years can apply for ownership and registration (governed by the Civil and Civil Procedure Codes). Households living on or using land they do not own are only compensated for their "value added" contributions (lost above-ground assets) (Art. 26 and 28 Expropriation Law). There is no specific provision for resettlement assistance in lieu of compensation for land, except as it would be claimed and included under "prejudice."</p>
<p><b>Operational Principle 8.</b> Disclose draft resettlement plans, including documentation of the consultation process, in a timely manner, before appraisal formally begins, in an accessible place and in a form and language that are understandable to key stakeholders.</p>	<p>Proposals for expropriation and Location Permits and Technical Designs are prepared in the local language and made available in the respective county or local council office and the expropriator's office and are posted in the official gazette and local newspapers before expropriation is initiated. Interested parties, including actual or potential affected persons, can register their concerns verbally or in writing when the expropriation decision is under consideration and later, after the Technical Design is completed. No formal resettlement or land acquisition plans are issued in addition to the documentation required to justify expropriation and the Technical Design, but these documents are essentially equivalent to the plans specified in the principle. Documentation of the consultation process includes the minutes of the expropriation decision and the findings of the commission established by the mayor respond to complaints and objections.</p>
<p><b>Operational Principle 9.</b> Apply the principles described in the involuntary resettlement section of this Table, as applicable and relevant, to subprojects requiring land acquisition.</p>	<p>The principles apply to all aspects of an investment involving expropriation, at each level of government, including all subprojects.</p>
<p><b>Operational Principle 10.</b> Design, document, and disclose before appraisal of projects involving involuntary</p>	<p>Romanian law and practices do not require monitoring or assessment of the impact of expropriation. This is a divergence that will be addressed through independent monitoring and regular Bank supervision.</p>

<p><i>restriction of access to legally designated parks and protected areas, a participatory process for: (a) preparing and implementing project components; (b) establishing eligibility criteria; (c) agreeing on mitigation measures that help improve or restore livelihoods in a manner that maintains the sustainability of the park or protected area; (d) resolving conflicts; and (e) monitoring implementation.</i></p>	
<p><b>Operational Principle 11.</b> <i>Implement all relevant resettlement plans before project completion and provide resettlement entitlements before displacement or restriction of access. For projects involving restriction of access, impose the restrictions in accordance with the timetable in the plan of actions.</i></p>	<p><i>Expropriation must be completed before a Construction License is issued, which enables the project proponent/expropriator to start civil works. There are no restrictions on access that require mitigation.</i></p>
<p><b>Operational Principle 12.</b> <i>Assess whether the objectives of the resettlement instrument have been achieved, upon completion of the project, taking account of the baseline conditions and the results of resettlement monitoring.</i></p>	<p><i>No ongoing monitoring of the expropriation process is required. Similarly, no follow-up assessments are undertaken, as compensation is assumed to be adequate unless it is revised by a court decision in response to a challenge.</i></p>

## Analysis of Gaps

There are no salient differences between Romanian expropriation laws and Table A1 of OP 4.12 in the objectives and principles 1, 3, 8, 9 and 11. Principle 10 is not relevant for the pilot projects. The principles in which there are differences are discussed below, with abbreviated titles of the respective principles.

<p><b>Operational Principle 2. Census and Survey.</b></p>	<p><i>The expropriation documents and Technical Design include information on household land ownership, which constitutes a proxy for a household census. This operational principle also requires a baseline household socio-economic survey to be carried out. However, Romanian expropriation laws and procedures do not require a survey. The pilot projects primarily involve land acquisition, not physical relocation, and</i></p>
---	---

	<p>would not require affected persons to change occupations, for which a socio-economic survey might have some value. Therefore, this difference does not compromise the objectives or outcome of the process and this is not a significant gap that would need to be filled in order for the projects to be piloted under OP 4.12</p>
<p><b>Operational Principle 4. Consultation, Entitlements and Special Groups.</b></p>	<p>The consultation and disclosure process is adequate, although a specific resettlement document is not required. The documents prepared for the Expropriation Decision and the Technical Design can be considered reasonable proxies for the plan specified in the principle. Eligibility for compensation is based on documentation of ownership or claims for damages. Within 15 days of the completion of the Technical Design, which identifies affected persons specifically, these are notified by letter of the intent to expropriate, along with a copy of the minutes of the Expropriation Decision. Negotiation for compensation can be complicated if the land is not titled and ownership is contested, however. The estimated cost of expropriation is included in the expropriation request and refined in the Technical Design, which includes estimates of the value of each parcel. Affected persons must request compensation for "prejudice," during negotiation or in the court, if they are not satisfied with the outcome of negotiations. The process does not give special consideration to the vulnerable or excluded groups, but that difference is not considered to be significant if (a) assessed valuation is adequate and consistent and (b) people are informed of their rights and entitlements. Informants indicated little experience with the issue of illegal occupation and squatters, and this needs to be monitored closely during implementation.</p>
<p><b>Operational Principle 5. Inform People of Rights, Compensate and Support Transition.</b></p>	<p>There are no provisions that require the expropriator to inform people of their rights. If information is provided, however, it is cursory and appears to be inadequate. This is a salient divergence from the principle which could have significant impact if it results in compensation below market value and people are unaware of opportunities to contest the amount. This gap will have to be filled. Prompt payment of compensation is required, and consistent with the principle, but violations of this principle in major highway construction have been reported, thus the issue will need to be monitored closely during implementation. Property values are assessed by certified assessors. Informants indicated some discrepancies in the extent to which specific assessment reports are prepared and whether they are prepared before or after negotiations. If the reports are prepared before negotiations, they are not necessarily shared with owners, thus potentially disadvantaging them in negotiations. This is a salient divergence which will be mitigated by standardizing the timing of assessments as well as requiring them to be shared with owners at the start of negotiations. The quality and consistency of assessors appears to be subject to dispute, which undermines public confidence in the valuation process and could result in under-valuation, which would violate the principle. This divergence in practice will be mitigated. If people are adequately informed about their rights, a combination of compensation for assets and prejudice should be adequate for households to restore their assets, livelihoods and, if relevant, transition to another location. Improving the dissemination of information will help reduce the likelihood that compensation is inadequate, making the process and practice equivalent to the principle. To address the divergence in practice related to information dissemination, the letter that announces the intent to expropriate will be accompanied by a brochure that clearly describes the expropriation process and the rights of owners in the process, including the scope of prejudice. If affected persons are compensated adequately</p>

	<i>for their losses, there is land is available for owners to make their own adjustments, thus the divergence from the principle of a land based strategy is not considered to be material. Special cases involving major land losses and the loss of businesses and residences would need to be managed on a case-by-case basis in consultation with the Bank.</i>
<b>Operational Principle 6. Preference for a Land Based Strategy.</b>	<i>The use of cash compensation for expropriation in Romania differs from the principle that compensation of people displaced from land-based livelihoods and expropriation should be land based. Given the complex landholding situation in Romania and the lack of availability of State land that could be traded, and given the availability of private land for purchase and open access to the land market, the current arrangement is adequate to enable affected households to pursue a land based solution on their own, if they so desire. This difference from the principle is therefore not considered to be significant.</i>
<b>Operational Principle 7. Provide Resettlement Assistance to those Without Formal Legal Rights to Land.</b>	<i>Informants indicated little experience expropriating land used by people who are without use or ownership rights. Romanian law does not make specific provision to compensate people without legal rights to land, although they may be eligible to claim damages (prejudice). It is not expected that the pilot projects will encounter such situations, and Bank and Romanian authorities will establish a mechanism to address this issue in the unlikely event that people without legal title to land are affected by the pilot projects. Each case should subsequently be monitored.</i>