

As regards transferring the ownership of the real property to the State Treasury, the owner or perpetual usufructuary is entitled to monetary or land-for-land compensation. The Road Act does not indicate any preference for the land-for-land compensation; it rather assumes the monetary compensation allowing for purchasing a similar real property at market price.

The amount of compensation is determined by the authority which has issued the RCC, by a separate decision setting the compensation. The decision setting the compensation is issued separately for each property, based on an independent and objective valuation made by a real property appraiser holding a relevant licence (a professional licence for appraising properties, granted by the state). What is important, in the procedure for determining the amount of compensation, the expropriated person may present a valuation report made by the licensed appraiser they have hired. In such an event, the authority competent to issue the decision setting the compensation amount must also refer to the valuation presented by that party. Additionally, if the party files any remarks or motions in the procedure for setting the compensation amount, the competent authority must refer to those remarks and motions during the procedure and then again in the decision setting the amount of compensation.

The amount of compensation is determined for the real property as of the date of issuing the RCC, but according to its value as of the date the amount of compensation was determined.

The decision setting the compensation amount is issued within 30 days of the date the RCC become final. However, if the RCC is given the order of immediate enforceability, the decision setting the amount of compensation is issued within 60 days of the date when such order was given.

The party may appeal against the voivode's decision setting the amount of compensation to the superior authority (for RCCs issued by the voivode, to the Minister of Development).

If the expropriated person appeals against the decision setting the amount of compensation, a prepayment is paid at the request of that person, equal to 70 % of the compensation granted by the authority of first instance in the decision setting the amount of compensation. The prepayment is paid on a one-off basis, within 30 days after the date of the request.

The decision issued in the appeal proceedings may be further complained against to the provincial administrative court within thirty days from the date the complainant received the judgment. The party may further apply for cassation of the judgment made by the Supreme Administrative Court, within 30 days from the date the party received a copy of the judgment including reasons.

Where the Road Construction Consent concerns a real property developed with a residential building or a building in which a dwelling unit was separated, the amount of compensation due to the current owner or perpetual usufructuary residing in that building or dwelling unit is increased by PLN 10,000 with reference to such property.

Compensations for the properties expropriated under a Road Construction Consent will be paid by the General Directorate for National Roads and Motorways. The expropriation will be for the benefit of the State Treasury, and in accordance with Article 20 of the Road Act, *the General Directorate for National Roads and Motorways or the competent road management authority shall be granted for permanent management, by operation of law and free of charge, real properties owned by the State Treasury or a local government unit, on the date the road construction consent regarding such properties became final*. Therefore, the State Treasury (GDDKiA) and the State Water Management Authority Polish Waters – RZGW Szczecin (Investor) will enter into an agreement setting out, *inter alia*, the rules of transferring the resources for the compensations for acquired properties from the PGW

WP RZGW Szczecin to the GDDKiA. The agreement additionally will stipulate that the rules of granting compensations will include the Wold Bank's Operational Policy OP 4.12 'Resettlement' and the provisions of the Land Acquisition and Resettlement Policy Framework for the OVFMP.

#### 6.4 Imposing restrictions in the use of real property

The initiation of a proceedings for issuing the RCC requires an application submitted by the Investor, who must identify, without limitation, the properties or parts thereof being a part of the investment project, which are necessary for its functioning, and which will not be transferred to the State Treasury but will be restricted in use. The application must be considered and, if this is determined by the administration authority, disclosed in the RCC issued by the voivode (Article 11d(1)(3b) of the Road Act).

Unlike the Flood Act, the Road Act does not contain the concept of 'permanent restriction in the use of a real property' but only the concept of 'restriction in the use of a real property'. The type of restriction in using a real property is regulated in Article 11f(1)(8) of the Road Act. A restriction in the use of a real property may be caused by:

- the construction and use of provisional civil structures,
- the demolition of the existing civil structures which are not planned for further use and the provisional civil structures,
- the construction or relocation of utility networks,
- the construction or relocation of water equipment or field drainage systems,
- the construction or reconstruction of other public roads,
- the construction or reconstruction of exit roads.

Additionally, in accordance with Article 11f(2) of the Road Act, the provisions of Article 124(4) to (7) and Article 124a of the Real Property Management Law shall apply *mutatis mutandis* to the restrictions referred to in Article 11f(1)(8)(i).

The foregoing provisions of the RPM Law provide, for instance, that if the installation or laying of a drainage channel, duct or equipment used for transmitting or distributing liquids, steam, gases or electrical energy, as well as public communication and signalling equipment or other underground, on-ground or aboveground facilities or equipment necessary to use these ducts and equipment, prevents the owner or perpetual usufructuary from continuing the proper use of the property as before or according to the previous purpose, that owner or perpetual usufructuary may demand that the property be purchased under the civil-law procedure, by submitting a relevant application to the investor.

We should indicate that neither the Flood Act nor the Road Act define the concepts of restriction or permanent restriction in the use of a real property, nor do they identify the administration authority competent to determine a relevant compensation under the administrative procedure. The absence of a specific legal provision that would indicate the material competence of authorities is an evident legal gap. However, as regards the Road Act, we may refer to the judicial opinion expressed in the Order of the Supreme Administrative Court in Warsaw of 9 November 2012 (ref. I OW 142/12). The Court has clearly stated in the Order that "the authority competent to set the compensation is the authority which has issued the road construction consent (...). It is impossible to assume that the legislator has divided the competence for determining compensation for the effects of the same decision depending on the object of such compensation". We should also assume that, in these proceedings, we must apply Article 23 of the Road Act, which states that to all matters not settled in

those special-purpose Acts “the provisions of the Real Property Management Law shall apply accordingly”, and to comply with that disposition we must base the proceedings on the provisions of the RPM Law. As a result, with regard to the compensations for the restriction of use based on the Road Act, we must apply the procedures and rules of valuation described herein, which concern the determination and payment of compensations for the expropriation of real property or a part thereof.

During the public consultation, one owner of a property (plot no. 350 in precinct 004 Śródmieście) has applied for the purchase of the entire property because, as he claims, the works to be conducted both on and directly next to his property will materially alter the present peaceful environment and landscape, and will make the living in that place excessively burdensome. In the case of this particular family household, the acquisition for project purposes under the Road Construction Consent will cover only plot no. 394/36, precinct 0004 Śródmieście, area: 0.0169 ha, which directly adjoins plot no. 350, which will be restricted in use. However, both plots (394/36 and 350) functionally compose one real property, which is divided into two separate plots only in land survey plats. Pursuing the principles adopted in OP 4.12, the Investor has decided to voluntarily purchase plot number 350 upon the consent of its owners, for the price specified in the appraisal report made by a licensed property appraiser. The decision is supported by the actual adverse impact of the investment project on the applicant's living conditions. This is because the project will reduce the actual usable area of the property (plots no. 350 and 394/36) and cause permanent restrictions in a part of it. As a result of the voluntary purchase, the State Treasury will become the owner of the investment property and the functionally interrelated plot number 350. This voluntary transaction (property sale agreement) will allow the PAPs to finance the construction of their own house in a different location of their choice. It has been established that until the PAPs build the new house, they will be allowed to continue living in the present location, including during execution of the project.

As of the date of preparing this LA&RAP, the final decision on the procedure to acquire the property from the PAPs has not yet been made. The intention is to implement, upon the approval by the WB, the fastest procedure leading to the voluntary purchase of the property. The possible procedures include:

- a) the purchase of the property by the Investor (PGW Polish Waters) under the Water Law;
- b) the purchase of the property by the administrative investor (GDDKiA) under the Road Act;
- c) the purchase of the property by the State Treasury represented by the competent district starost under the Real Property Management Law.

The purchase options presented above imply the obligation to obtain permits or approvals from entities or bodies external to the PIO, which made it impossible to obtain the approval for any of the solutions before preparing this LA&RAP.

For this reason, the Investor only indicates here the possible further procedures, emphasizing that the presented options are not exhaustive. Irrespective of the chosen further procedure, the aim is to procure a voluntary purchase of real property from the PAP interested.

## 6.5 Special procedures

Pursuant to Article 133 of the RPM Law, the Investor shall submit the amount of compensation to court deposit, in compliance with the decision by the voivode, requesting the Investor to pay the compensation to such deposit. This is equivalent to fulfilling the performance. As a rule, compensation is paid to court deposit if the expropriation concerns a property with an unsettled legal status. The amount of compensation is also paid to court deposit if the beneficiary refuses to accept the

compensation (which refusal should be made in writing) or if the payment faces obstacles being difficult to overcome. This may also occur if only one of the beneficiaries refuses to accept the compensation (in this case only the unaccepted part is submitted to court deposit) or if the compensation may not be paid, at least for a certain time, due to the life situation of the beneficiary.

A valid submission to court deposit has the same effects as performance, and obliges the creditor to reimburse the debtor (in this case, the State Treasury) for the costs of submission. The amount of compensation for dispossessing a property with an unsettled legal status may, in accordance with Article 118a(3) of the RPM Law, remain in the deposit for up to 10 years from the date of submission (unless the compensation so submitted is collected by the beneficiary until that time). Once this period expires, the court liquidates the deposit and transfers it to the State Treasury.

## 6.6 Adopted mechanisms of acquiring rights to the property<sup>12</sup>

The LA&RPF identifies a number of inconsistencies between OP 4.12 and Polish law:

OP 4.12	Polish law	Corrective instruments
The lack of title to the land should not bar compensation. Persons not holding a title receive compensation.	The Polish legal system does not provide for the right to compensation of land owners/possessors who do not have a title to it (except for persons whose certificate of title to the property has been lost or who have acquired the right to the property by acquisitive prescription, that is by uninterrupted possession of the property for the period defined in the CC).	For persons not holding a title to the property affected by the Task, each such case should be, however, analysed on an individual basis for whether it is allowed to use the general mechanisms provided for in the Civil Code to reach the objectives of OP 4.12.  According to OP 4.12, the project affected persons who do not hold a title to the property are not entitled to receive monetary compensation for that property. However, they have the right to receive compensation for any structures, plantings and improvements made on the property prior to the cut-off date, and to benefit from appropriate solutions if they must be physically or economically displaced. In such cases, adequate mitigating measures will also be used.

<sup>12</sup> The contents of this chapter are in line with the LA&RPF

<p>The WB policy requires compensation for income<sup>13</sup> (e.g. from business activity or agriculture) lost due to the acquisition of property.</p>	<p>Polish legal provisions do not provide for compensation for income lost due to the implementation of investment project.</p>	<p>Persons who have lost their income or employment will receive support (health insurance, vocational training, etc.) from employment offices. For entrepreneurs, it is possible to apply the general mechanisms set forth in the Civil Code (compensation for actual damage and lost profits).</p>
<p>Particular attention should be paid to the needs of vulnerable groups, especially the poor, the elderly, single mothers, children and ethnic minorities.</p>	<p>Polish law does not require planning of particular measures to provide additional support to vulnerable groups (the elderly, the disabled, the poor and others who may have special needs).</p>	<p>The persons to be expropriated will be given all assistance in obtaining the support provided to citizens by authorities and institutions. Additional actions will also be taken to ensure attainment of the objectives defined in OP 4.12.</p>
<p>The WB policy requires additional compensation for expenses incurred by the PAPs due to their physical relocation (e.g. transport of materials) as well as assistance in the resettlement.</p>	<p>There is no assistance provided for citizens and enterprises to cover their removal expenses and other similar costs of involuntary relocation to a new place.</p>	<p>In order to cover the removal expenses and other similar costs, it is possible to apply the general mechanisms set forth in the Civil Code to attain the objectives defined in OP 4.12.</p>
<p>The compensation should be paid before the actual taking of the land for the purposes of the investment project.</p>	<p>The Flood Act allows for a seizure of land and commencement of works before compensation is paid. Other cases are governed by provisions the CC and CL, which do not impose such a condition.</p>	<p>In any case, works may be started only upon confirmation that the PAP has been notified in advance of the commencement of works, that the remuneration has been paid and that the consent for entering the land has been granted. An exception is where appeal proceedings have been instituted as a result of unsuccessful negotiation, absence of owners or impossibility to identify them. To minimise the risk of commencing the works before compensating for losses, the seizures of properties should be planned and carried out in advance, before the works begin.</p>

<sup>13</sup> Defined as revenue in the Polish economic environment

<p>Compensation for the loss of goods is based on their market value increased by any transaction costs (such as taxes or charges), and should be sufficient to effectively reinstate the lost goods (replacement value).</p>	<p>Standard valuation methods may cause the property value to be understated relative to the prices for similar properties existing on local market.</p>	<p>The valuation will be commissioned to an independent and experienced appraiser. The opinion by the licensed property appraiser should be verified by the PIU. The expropriated party should be given an appropriate time limit to read the extract from the appraisal report prepared by the appraiser.</p> <p>In the event of doubt as to whether the due compensation amount is sufficient, the property may be valued by an independent property appraiser at the request of the expropriated person.</p> <p>In any case, the appraisal must specify the replacement value.</p>
<p>It is required to prepare a socioeconomic study, prepare a RAP, monitor the compensating measures, resettlements and measures aimed to reinstate the quality of life, and measure the effectiveness of all the said measures.</p>	<p>Polish legal regulations do not impose the obligation to prepare the socioeconomic study or to prepare the RAP as such. It is also not mandatory to monitor and evaluate the implementation of those measures.</p>	<p>Socioeconomic studies and LA&amp;RAPs are prepared according to the LA&amp;RPF, OP 4.12 and good practices.</p>

Given the procedural requirements for Task 1B.5/2, it is required to apply the property acquisition mechanisms stipulated in the Road Act, which requires that real properties or parts thereof be acquired under the expropriation procedure. In any case, the priority for the Investor is to reach an agreement with the PAP on the terms of acquiring the property (form of compensation, date of acquisition, rules of use after the RCC is issued, etc.). After issuing the RCC, the negotiations will only concern the form and terms of acquiring the property. The amount of compensation will be determined in the decision made by the competent authority, in line with the Road Act (Article 18(1)). The need to apply this LA&RAP and the World's Bank Operational Policy OP 4.12 during the negotiations, the acquisition of properties and the payment of compensations is the object of a voluntary agreement to be made between SP GDDKiA and the Investor. The Agreement will stipulate the terms on which the Investor must transfer, and the GDDKiA must settle, the funds that the GDDKiA will use to pay the compensations, but an essential condition of transferring the funds for compensation is that the GDDKiA must comply with the rules set out in this LA&RAP and in OP 4.12.

In the case of relocation of service utilities, the owners of the power, gas, water supply and telecommunication lines will receive compensation in the form of new transmission facilities (network), made on other real properties or in another part of the real property in place of the equipment which has been removed. The properties with the new transmission equipment will be under the transmission easement established for the benefit of the transmission company that owns

the demolished and restored network. In accordance with Article 305<sup>1</sup> of the CC, the transmission easement consists in encumbering a real property with the right to use it within the scope according to the purpose of the transmission facilities. The encumbrance encompasses access, use by way of day-to-day operation, as well as checking, inspecting, maintaining, modernising, overhauling, removing failures and replacing the facilities founded on a given real property, insofar as necessary to ensure proper and undisturbed operation of the company's transmission network (cf. Order of the Supreme Court of 18 April 2012, ref. V CSK 190/2011). The principal way to establish the transmission easement is an agreement made between the property owner and the entrepreneur. The property owner may demand appropriate compensation in exchange of the transmission easement. If the property owner refuses to make the agreement, the transmission easement may be, at the entrepreneur's request, established by court upon adequate compensation, under a non-litigious procedure, as in the easement of passage. The compensation is determined by court, normally through an expert and based on the type of facilities and the related manner the entitled person uses the property, as well as the impact of the facilities on the restriction in executing the ownership right in the property. The same right is enjoyed by the property owner if the entrepreneur refuses to make the agreement for the transmission easement necessary to use such facilities. The Act does not specify whether the compensation should be paid periodically or on a one-off basis, which means that it is possible to choose an equivalent benefit for the owner. All the properties to be acquired temporarily will be restored to their original condition by the Contractor. The scope and target locations of such temporary acquisitions will be determined once the Contractor is selected. In negotiating the terms of temporary acquisition, the Contractor shall pursue the principles set out herein (this process will also be conducted on a voluntary basis).

## 6.7 Valuation principles<sup>14</sup>

A current owner or perpetual usufructuary of land or a part of land necessary to carry out the Contract is entitled to compensation for the transfer of ownership of the property to the State Treasury or a local government entity.

In all cases, the compensation must be equal to the **replacement value**, which means the market value necessary to replace the assets, excluding their depreciation due to age, condition or any other factor. This is usually based on the market value of the property and related goods (such as plantings or other elements) plus any transaction costs required to replace it, such as taxes or fees. Compensation is determined on the basis of a valuation by a licensed property appraiser or a team of property appraisers (e.g. including an agricultural property appraiser), as required.

According to OP 4.12, with regard to real property and structures, 'replacement value' is defined as follows:

- a) for agricultural land, it is the pre-Project or pre-displacement (whichever is higher) market value of land of equal productive potential or use, located in the vicinity of the land affected by the Task, plus the cost of preparing the land for the functions similar to those of the taken land, plus transaction costs;
- b) for land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the taken land, plus transaction costs;
- c) for houses and structures, it is the market value of the materials to be installed in new houses or structures replacing the affected houses and structures, at a quantity and quality similar to

---

<sup>14</sup>The contents of this chapter are in line with the LA&RPF

or better than those installed in the houses and structures expropriated or partially affected, plus the cost of transport of materials to the construction site, remuneration for construction workers, transaction costs, and taxes and fees related to the construction of new structures.

In determining the replacement value or the depreciation of assets and values of survived materials are not taken into account, nor is the value of benefits to be derived from the Project, deducted from the valuation of assets affected by the Project. Where Polish laws do not impose the obligation to pay compensation amounting to the replacement value, the compensation provided according to Polish laws is supplemented by additional measures so as to meet the replacement value standard, such as support in the transition period after resettlement, being a reasonable time necessary to reinstate the standards of living (including livelihood), etc.

Compensation is paid in the amount specified in the RCC by the voivode, based on the valuation made by a professional property appraiser to set the value of the property. In any case, the compensation should be equal to at least the replacement value of the property or lost goods.

NOTE: The valuation methods are defined by a regulation, that is the Regulation of the Council of Ministers of 21 September 2004 on the appraisal of properties and preparing appraisal reports, which contains details on such matters as the methods and techniques of estimating the compensation value.

#### 6.7.1 Real property valuation <sup>15</sup>

The amount of compensation is determined on the basis of the market value of the real property. In determining the market value of the property, the following factors in particular are taken into consideration: its type, location, use and zoning, existing technical infrastructure, overall condition and current market prices. The market value is based on the current use of the property, unless its zoning according to the purpose of the investment project increases its value. If the data from the local or regional real property market allow the appraiser to ascertain the market value of the property, the appraiser should determine the value using one of the market approaches: sales comparison approach, income approach or combined approach. Should the zoning according to the purpose of expropriation increase the property value, then its value for compensation purposes is ascertained according to the alternative use resulting from the new zoning. If the data from the local or regional real property market are insufficient to ascertain the market value of the property, the appraiser should determine its replacement value using the cost approach.

If the current owner or perpetual usufructuary of the property covered by the RCC delivers the property or delivers the property and vacates the premises and other rooms within 30 days from the date the RCC became final, the amount of compensation is increased by 5% of the value of the property or of the value of the right to perpetual usufruct.

#### 6.7.2 Valuation of movable assets<sup>16</sup>

Movable assets will be compensated for in cases where:

- a) they are unsuitable for use in the new location; and/or
- b) the project affected persons will no longer use them as a result of the resettlement (e.g. moving from a rural to an urban dwelling).

---

<sup>15</sup> The contents of this chapter are in line with the LA&RPF

<sup>16</sup> The contents of this chapter are in line with the LA&RPF



The appraiser values movable assets (such as machines or appliances) on the basis of the following data: brand, model, type, year of manufacture, manufacturer, place and date of manufacture, as well as other data necessary to identify the movable asset. The book value of such movable assets may increase or decrease during the valuation. The causes of the decrease may be in particular technical (wear and tear), functional (modifications in material or design) or economic (lack of particular material or workforce, changes in legal provisions, decreased demand). When valuing the property, the appraiser uses the cost or sales comparison approach.

To determine the value of civil structures being property separated from the land, it is possible to apply the cost approach, replacement value approach and index method technique. The cost approach consists in determining the value of property assuming that it is equal to the cost of its replacement (substitution). The value of land components is assumed as the amount equal to the cost of their replacement or substitution.

The essence of the cost approach is an assumption that the purchaser will not be ready to pay for the property more than the cost of its erection using the same technology, for the same purpose and in the same location. In consequence of this approach, we may distinguish two types of cost:

- replacement cost,
- substitution cost.

To apply the replacement cost method, we need to have technical information on the civil structures to be valued and on the prices of materials and construction works. Replacement cost is defined as the cost of building a structure identical to the structure to be valued (exact copy). In determining the value, the property appraiser takes into account the same design, equipment and quality of construction works, and the costing should include all defects, deficiencies, unnecessary items of equipment or structure or materials that are falling out of use. The replacement cost also includes the cost of building associated facilities closely related with the valued structure, the cost of preparing and clearing the site, the cost of preparing design documentation and the cost of construction supervision. Therefore, when determining the replacement cost, it is necessary to specify the cost of building its replica as at the date of valuation. The prices of materials most similar to those used to build the structure should be applied only if the actual materials used to build the structure are no longer available on the market.

As of today, we have not identified any structures permanently bonded with the property, which would be unsuitable either in the new location or due to the expropriation.

### 6.7.3 Valuation of plants and crops<sup>17</sup>

When valuing tree stands or tree covers, if they contain suitable resources, it is necessary to value the timber included in the tree stand. If the tree stand includes no usable resources, or the value of acquirable timber is lower than the cost of reforestation and maintenance of the tree stand, the valuation should cover the costs of reforestation and maintenance of the tree stand until the day of expropriation.

The valuation of fields of perennial plants involves the valuation of the costs of establishing the field and its maintenance until the first crop as well as of the lost profit in the period from the day of

---

<sup>17</sup> The contents of this chapter are in line with the LA&RPF

expropriation until the completion of the full yield. The aggregate of costs and the value of lost profits are reduced by the sum of the yearly depreciation charge for the period of using the field from the first year of yield until the day of expropriation. The valuation of crops and other yields of annual plants involves the valuation of the expected yield according to the current market prices, reduced by the value of expenditures necessary to harvest the crops. The valuation of sowing, cultivation and other yields of annual plants involves the valuation of the expected yield according to the current market prices, reduced by the value of necessary expenditures related to the harvest of the crops.

#### 6.7.4 Valuation of other assets<sup>18</sup>

The remaining assets related to the real property are civil profits, that is income from real property gained on the basis of a legal relationship. When valuating the rights under contracts (including the right of lease, lending and life annuity) and their impact on the real property, the appraiser may in particular consider the following elements:

- type, nature, scope and duration of the contract,
- relevant provisions of law,
- form of payment,
- type and amount of other benefits,
- method and dates of payment of rent and other benefits,
- the rights and obligations arising out of contracts,
- the parties' claims related to the settlement of expenditures on the real property, and
- available information concerning the valuated real property and the particular type and section of the market involving obligations.

---

<sup>18</sup> The contents of this chapter are in line with the LA&RPF

## 7. ELIGIBILITY CRITERIA AND CATALOGUE OF BENEFICIARIES <sup>19</sup>

### 7.1 Eligibility criteria

According to the World Bank's Operational Policy, the following groups of people are eligible for compensation and assistance in connection with property acquisition causing the loss of assets and (physical or economic) displacement:

- (a) those who have formal legal rights to the land or other assets affected by the Project (including customary or traditional rights);
- (b) those who do not have such formal legal rights at the time the census begins but have a claim to such land or assets, provided that the claims are recognized under the laws of the country or become recognized during preparation of the RAP;
- (c) those who have no recognizable legal right or claim to the property they are occupying.

The persons specified in paragraph (a) or (b) above should receive compensation for the land they lose, and other assistance. The persons specified in paragraph (c) should be provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives of OP 4.12, if they occupy the Project area prior to the cut-off date. Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons specified in paragraphs (a), (b), or (c) should be compensated for the loss of assets other than land.

Thus the lack of a title in the property as such should not preclude the eligibility for compensation or other assistance offered in connection with the involuntary acquisition of property.

The method of assessing the impact on PAPs is described in chapter 4.1. Social impacts.

We should indicate that during preparation of the socioeconomic study for the Task, the persons not holding a title to the land and using the investment properties illegally have not been disclosed. In the Polish legal environment, the persons who use a real property without a title are aware that their actions are illegitimate and that the property may at any time return to its owner without any monetary compensation.

### 7.2 Catalogue of beneficiaries

The eligibility for compensation and assistance will be based on the following principles:

- PAPs legally possessing a real property on the Project site shall receive full compensation with due account of the 'land for land' rule,
- PAPs being lessees, tenants, life annuitants or other dependent possessors of a real property on the Project site shall receive full compensation for the loss of these rights,
- PAPs being possessors of limited property rights in real property shall receive full compensation for the loss of these rights,
- the owners of crops, plants, structures and other constructions attached to the land shall receive compensation for such crops, plants, structures and constructions,
- residents of houses and flats to be displaced shall receive compensation according to the rules specified above as well as assistance in the resettlement, adequate access to social infrastructure and, if necessary, a package of individually selected protective measures,

---

<sup>19</sup> The contents of this chapter are in line with the LA&RPF

- PAPs who lose their revenue, pay or ability to carry out business activity due to the Project shall receive adequate compensation and, if necessary, a package of individually selected protective measures,
- PAPs illegally possessing real properties on the Project site, who have no title or expectant right to acquire such title, shall receive no compensation for the expropriation from the real property, as this is not allowed under Polish law. However, they will receive compensation for the plants, structures and facilities being their property and, where necessary, a package of specially selected protective measures to restore or improve their quality of life.

For Task No. 1B.5/2, titled 'Reconstruction of a bridge to ensure minimum clearance – Road bridge at km 2.45 of Warta river in Kostrzyn nad Odrą', the following groups of persons have been identified and preliminarily qualified for compensation for the project-related impacts:

- a/ property owners – natural persons;
- b/ property owner – legal person;
- c/ property owner – the Municipality of Kostrzyn nad Odrą;
- d/ perpetual usufructuary of the property being a state-owned legal person – Warta Mouth National Park.

To date, we have not identified any persons from the vulnerable groups.

PAPs will be entitled to receive compensation for the following categories of effects/losses:

- **Permanent loss of real property** – where feasible and where the PAP expresses such a wish, he or she will be compensated on the 'land for land' basis by assigning a real property of a similar value, location and functions to those of the property that was dispossessed. If it is impossible to find a real property that meets the requirements of adequate compensation, the PAP does not wish to obtain a 'land for land' compensation or only a small portion of the plot is acquired, the compensation will be paid in cash and will correspond to the market value of the expropriated property or its part. In addition, if the property is released immediately, it will be possible to increase the compensation by an amount corresponding to 5% of the value of the expropriated property on the terms of the Road Act. The PAPs who are not owners or perpetual usufructuaries but hold title to the real property (e.g. tenants, lessees) will receive compensation corresponding to the value of the lost rights. At the request of a PAP, the Investor may acquire the entire real property and compensate for the acquisition of such property on the terms mentioned above. Any transaction costs, including taxes related to granting the compensation for expropriation, will be covered by the Investor. The PAPs who possess properties located on the site of the Project without a title (illegally) will not be granted any compensation for the expropriation of the land. However, such persons will receive compensation for plantings and structures they own and, if necessary, a package of protective measures to restore or improve their quality of life;
- **Restriction of the current use of property** will, as a rule, be compensated in cash, taking into account the loss of market value of the property. Tailored protective measures will also be offered on a case-by-case basis. At the request of the PAP, the property to be restricted in use will be acquired by the Investor in full, with due regard to the provisions of the Road Act and the RPM Law. Such person will receive compensation on the terms set for the permanent loss of property;
- **Residential buildings** – the compensation process will be carried out as for the permanent loss of property. In addition, the relocated PAP will receive an additional payment in the amount of PLN 10 000. If any squatters are identified, they will not be entitled to compensation, but in

certain cases the investor must award them adequate replacement accommodation. Such persons will be offered a package of protective measures, including assistance in finding their place of residence, and if they are unemployed or addicted, they will be offered measures supporting their position in the labour market, and they will receive a proposal of appropriate treatment;

- **Buildings and non-residential structures (stables, fences, technical infrastructure)** – as a rule, the owners and users of such buildings and structures will be compensated as for the permanent loss of property. Amongst the protective measures, the Investor will offer the reconstruction of service utilities and, where appropriate, the reconstruction of structures and buildings at Investor's expense. Additionally, for the local government units which have built or are building the affected facilities or structures using funds from the European Union or other foreign sources, the monetary compensation will be increased by the amount of reimbursable funds acquired from the co-financing entities, including due interest;
- **The loss of plants** will be compensated to the legal possessors of properties in cash, taking account of the costs of creation and care of the plantings as well as the value of lost benefits from the date of expropriation till the date of completion of full yielding;
- **The loss of tree stand** will be compensated as the the loss of plants. Depending on the case, compensation may also be paid according to the estimated value of obtainable wood;
- **The impact on enterprises** will be compensated in cash by compensating for the damage actually incurred by the entrepreneurs and the profit they lost due to Task. The values should be determined based on the billing and accounting documents or corporate income tax returns. Should employees lose their work, they will receive unemployment benefits. Both employees and contractors working under civil-law contracts, in case of loss of earning capacity, will receive free-of-charge health insurance, assistance in search for work and help in the form of vocational retraining aimed at finding new employment;
- **The loss or limitation of access to social infrastructure** (e.g. parks) will be compensated as far as possible by restoring the infrastructure on the new appropriately located site. Where it is impossible or unnecessary to restore the infrastructure on the new site, the PAPs will be given access to existing social infrastructure;
- **Cost of moving to a new location** – in order to cover the costs of resettling households, the PAPs will receive the amount of PLN 10,000. They will also be offered a package of protective measures including, if necessary, assistance in search for the transport company and the coverage of transport costs exceeding PLN 10,000;
- **Vulnerable groups** will be covered by a tailored package of protective measures (the schedule of implementation of these measures will be determined on an individual basis). With reference to children and school teenagers, the assistance will cover finding a new resettlement site which will enable them to continue education in the current school; the same rule applies to children attending nurseries and kindergartens. The elderly will be relocated to places devoid of architectural barriers which hinder movement and having equal or better access to health care, and which at the same time make it possible for the elderly to preserve their existing habits and lifestyle. The poor will be offered assistance in obtaining additional institutional support from government agencies, local government units and non-governmental organisations competent for their issues;
- **Temporary loss of land** will be compensated in cash through the payment of monthly amounts corresponding to the market prices of tenancy or lease of the real property. Moreover, if due to the temporary loss of land the PAP incurs a loss, such a loss will be separately compensated according to the aforementioned principles. After the completion of implementation activities, all properties will be restored to their original state;

- **Damage to houses, buildings and structures due to construction works** (e.g. vibration, accidents, etc.) will be compensated based on their nature in order to enable the restoration of the full substance of the affected facility or the purchase of a new facility. Depending on the situation, appropriate rules for the payment of compensation for the foregoing impacts will be applied.

A detailed catalogue of persons entitled to compensation is contained in Appendix 1. The appendix may not be published due to the protection of personal data.

Additional entitlements, including identification of the social group, mitigating measures and assistance offered, are listed in the following table.

### 7.3 Eligibility matrix<sup>20</sup>

Impacts/losses	PAP	Compensation
Permanent loss of property	Owners, perpetual usufructuaries, owner-like possessors	<ul style="list-style-type: none"> <li>• 'land for land' compensation,</li> <li>• If 'land for land' compensation is not feasible or undesired, then cash compensation,</li> <li>• coverage for all transaction costs,</li> </ul>
	Illegal possessors of the real property	<ul style="list-style-type: none"> <li>• no compensation for the loss of real property</li> </ul>
	Holders of easement, mortgage or lien on property	<ul style="list-style-type: none"> <li>• Cash compensation for lost rights,</li> <li>• for land easement holders – support in finding a solution allowing for using their property (holding the expropriated property), for example in establishing another right of way,</li> <li>• coverage for all transaction costs.</li> </ul>
	Illegal easement holders	<ul style="list-style-type: none"> <li>• For illegal easement holders – support in finding a solution allowing for using their property (holding the expropriated property).</li> </ul>
Restrictions in the use of property	Owners, perpetual usufructuaries, owner-like possessors	<ul style="list-style-type: none"> <li>• cash compensation caused by restriction in the use of property,</li> <li>• in the event of a reasonable request by the owner for the purchase of remainder of the property, acquisition of the property upon compensation,</li> <li>• covering the transaction costs,</li> <li>• offering institutional support and advice on the possibility to use the property otherwise.</li> </ul>
	Illegal possessors of the real property	<ul style="list-style-type: none"> <li>• offering institutional support and advice on the possibility to use the property otherwise,</li> </ul>
	Illegal easement holders	<ul style="list-style-type: none"> <li>• support in finding a solution allowing for using their property (being the dominant property relative to the expropriated property).</li> </ul>
Non-residential buildings and structures (utility buildings, fences, service infrastructure, etc.)	Owners or owner-like possessors of buildings and structures	<ul style="list-style-type: none"> <li>• monetary compensation at the replacement value for lost assets,</li> <li>• relocation or reconstruction of lost assets.</li> </ul>
	Usufructuaries	<ul style="list-style-type: none"> <li>• monetary compensation at the replacement value for lost assets,</li> <li>• relocation or reconstruction of lost assets.</li> </ul>
	Illegal possessors of buildings and structures	<ul style="list-style-type: none"> <li>• monetary compensation at the replacement value for lost assets,</li> <li>• relocation or reconstruction of lost assets.</li> </ul>
	Lessees and tenants of buildings and structures	<ul style="list-style-type: none"> <li>• monetary compensation at the replacement value for lost assets,</li> <li>• relocation or reconstruction of lost assets.</li> </ul>
Loss of plants	Owners and owner-like possessors	<ul style="list-style-type: none"> <li>• monetary compensation, including the costs of arranging and maintaining the plants, and lost benefits,</li> <li>• allowing the collection of crops.</li> </ul>
	Usufructuaries	<ul style="list-style-type: none"> <li>• monetary compensation, including the costs of arranging and maintaining the plants, and lost benefits,</li> <li>• allowing the collection of crops.</li> </ul>
	Lessees, tenants	<ul style="list-style-type: none"> <li>• monetary compensation, including the costs of arranging and maintaining the plants, and lost benefits,</li> </ul>

<sup>20</sup> The contents of this chapter are in line with the LA&RPF

		<ul style="list-style-type: none"> <li>• allowing the collection of crops.</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• allowing the collection of crops.</li> </ul>
Loss of trees	Owners and owner-like possessors	<ul style="list-style-type: none"> <li>• monetary compensation including, if necessary, the costs of arranging and maintaining the tree stand as well as the lost trees and benefits.</li> </ul>
	Usufructuaries	<ul style="list-style-type: none"> <li>• monetary compensation including, if necessary, the costs of arranging and maintaining the tree stand as well as the lost trees and benefits.</li> </ul>
	Lessees, tenants	<ul style="list-style-type: none"> <li>• monetary compensation including, if necessary, the costs of arranging and maintaining the tree stand as well as the lost trees and benefits.</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• allowing for the cutting of trees and the collection of timber.</li> </ul>
Municipal assets	Municipality	<ul style="list-style-type: none"> <li>• Restoration or replacement of damaged facilities upon consultation with the municipality.</li> </ul>
Temporary acquisition of properties	Owners, perpetual usufructuaries, owner-like possessors	<ul style="list-style-type: none"> <li>• Cash compensation,</li> <li>• reinstating the previous status of property.</li> </ul>
	Illegal possessors of the real property	<ul style="list-style-type: none"> <li>• reinstating the previous status of property.</li> </ul>
	Leaseholders, users of properties	<ul style="list-style-type: none"> <li>• cash compensation,</li> <li>• reinstating the previous status of property.</li> </ul>

## 8. PUBLIC CONSULTATION

The Task will be executed based on the provisions of the Road Act, which does not required the Investor to carry out public consultation. The Act only imposes the obligation to obtain the opinions of competent public administration authorities or the public asset keeper<sup>21</sup>, which should be enclosed with the RCC application. Although the public consultation is not required, pursuant to OP 4.12 the Investor initiated the process of public consultation by arranging meetings with PAPs (November and December 2018), where they discussed the rules stated in OP 4.12 and were given the then current design solutions. The PAPs will be informed on an ongoing basis of the current status of execution, and will have access to the information on current design solutions.

This draft hereof will be subject to a public consultation procedure carried out in line with the World Bank's Operational Policy OP 4.12.

Third-party stakeholder	Type of impact on the LA&RAP
competent Minister	1. Examining the appeal against the RCC 2. Examining the appeal against the decision setting the compensation amount
Voivode of Lubuskie Province	1. Issuing the RCC 2. Issuing the decision on compensation amount
Mayor of Kostrzyn nad Odrą	1. Representation of the Municipality as the person to be expropriated 2. Notifying PAPs of the public consultation 3. Direct participation in the public consultation
Entities to be expropriated	1. Participation in the socioeconomic study and inventory taking, 2. Identifying the needs and losses attributable to the expropriation 3. Choosing the form of compensation, 4. Direct participation in the public consultation.
Residents of Kostrzyn nad Odrą	1. Direct participation in the public consultation.

*The table presents the initial identification of stakeholders participating in public consultation and the entities having impact on the preparation and implementation hereof.*

Once the draft LA&RAP is completed, its electronic version, a notice of public debate over the draft LA&RAP and of its place and date will be posted on publicly available websites of:

- PGW WP RZGW Szczecin: <https://szczecin.wody.gov.pl/>
- PGW WP RZGW Szczecin (Project website): <http://bs.rzgw.szczecin.pl/>
- Project Coordination Unit: <http://odrapcu2019.odrapcu.pl/>
- Municipality of Kostrzyn nad Odrą – <http://www.kostrzyn.pl/>.

The printed version will be made available for review in the following offices if access to the offices will be possible:

- PGW WP RZGW Szczecin,  
ul. Tama Pomorzańska 13A,  
70-001 Szczecin
- Project Implementation Office,  
ul. Teofila Firlika 19,  
71-637 Szczecin
- The Municipal Office of Kostrzyn nad Odrą  
ul. Graniczna 2  
66-470 Kostrzyn nad Odrą

<sup>21</sup> Article 11d(1)(8) of the Road Act



Detailed information on the possibility to review the document and to file requests and comments, along with specific contact details (e-mail and address of the place where the draft may be reviewed, office hours, phone number and name of the contact person) will be published in local press, such as 'Gazeta Wyborcza', 'Gazeta Lubuska' or 'Gazeta Kostrzyńska Kostrzyński Flesz' and on the websites of the unit implementing Task 1B.5/2.

In view of the restrictions on public life in Poland caused by the emergence of SARS-CoV-2, which causes COVID-19 disease, it was considered that, taking into account the recommendations of the World Bank and the need to ensure security, there will be no public consultation meeting.

In order to fulfil the obligation to hold a public consultation and to provide the PAP with an opportunity to read the document and to make conclusions and comments, it was decided to hold a consultation by correspondence.

Therefore, an extract of this draft LA&RAP will be sent to all PAP or, if an e-mail address is available, an electronic version of the document will be provided. The document will be accompanied by a form for submission of applications, comments and questions and a letter, which will include in particular:

- a presentation and information brochure on the Project and Contract in Task 1B.5/2,
- the name of the case handler,
- contact details - phone number, e-mail address, mailing address,
- information that after the expiry of the 7-day deadline for reviewing the submitted project, a designated person will contact PAP by phone or e-mail to discuss the content of the document and answer any questions.

The above documents will be delivered by registered letter with electronic acknowledgement of receipt service. The public consultation in the form of correspondence will last 21 days from the date of sending the package. After 7 days from the day of receiving the electronic acknowledgement of receipt of the parcel by PAP, the process of direct telephone conversations with PAP will begin, during which, among other things, the impact of the investment on their situation will be indicated, information about the properties occupied for the purposes of the Task, information about possible other forms of contact will be provided, and additional questions and comments will be collected, together with an indication of the possibility of submitting the completed form for submission of applications, comments and questions within the deadline set for correspondence consultations. If the answer will require time, then the answer will be sent by e-mail or letter within 7 days.

During the consultations, a record will be kept of interviews conducted and of comments and conclusions received. After the lapse of the time for correspondence consultations, i.e. 21 days from the date of sending the package containing the LA&RAP document together with the form and letter, the process of submitting comments and questions will be completed.

From the public consultations conducted by correspondence a detailed report will be prepared describing the way they were conducted and the reason for choosing this procedure, which will be sent to the World Bank. Comments from the public that need to be taken into account will be introduced to the LA&RAP and a final version will be prepared. The LA&RAP in this form will also be sent to the WB for a "no objection" clause.

The final RAP with the 'no objection' clause given by the WB will also be provided to the parties interested by making its printed version available for review at the office of PGW WP RZGW Szczecin and in the Municipal Office of Kostrzyn nad Odrą;

and by posting on the websites of:

- PGW WP RZGW Szczecin: <https://szczecin.wody.gov.pl/>
- PGW WP RZGW Szczecin (Project website): <http://bs.rzgw.szczecin.pl/>
- Project Coordination Unit: <http://odrapcu2019.odrapcu.pl/>
- The Municipality of Kostrzyn nad Odrą: <http://www.kostrzyn.pl/> and

and will remain published until completion of the Contract. Any revisions of the LA&RAP will also be available to the parties interested on the website of PIU and PCU.

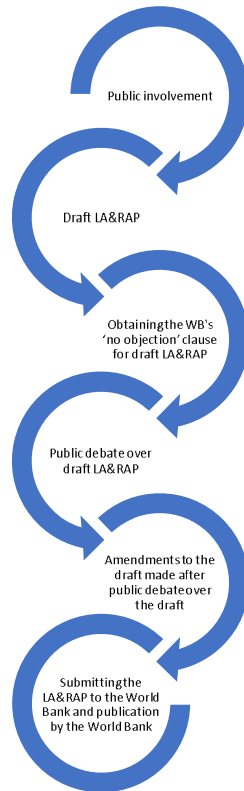
The plans regarding the Task were several times notified to the PAPs at the information meetings held as part of public consultation at the Municipality of Kostrzyn nad Odrą. The meetings were held in November and December 2018, and were participated by representatives of the Municipality of Kostrzyn nad Odrą. Notices of the meetings were published on the websites of the Municipality of Kostrzyn nad Odrą and in Gazeta Lubuska. The participants were presented the range of the task, the rules of eligibility to be classified as a Project Affected Person, and the procedural issues regarding the payment of compensations; the hosts have also discussed the scope of documents required to determine the amount of possible compensation, and replied to all questions regarding the investment project.



*The information meeting held at the Municipal Office of Kostrzyn nad Odrą on 14/12/2018*

We have conducted public consultation and a survey on the social and financial position of the PAPs affected by Task 1B.5/2 and on its impact on the quality of life and financial standing (the impact on revenues). The interviewed target group included the natural persons whose real properties are located on the site or within the direct impact of the investment project – Task 1B.5/2.

On 14 January 2019, there was another (third) meeting held in the Municipal Office of Kostrzyn nad Odrą, participated by the Client, Consultant, a representative of the Municipality of Kostrzyn nad Odrą, and the institutions concerned by the project. The meeting was also attended by the parties interested in the project, whose properties are located on its site, including the representatives of the GDDKiA (Branch in Zielona Góra), Warta Mouth National Park, and PGW WP (Basin Management Board in Gorzów Wielkopolski).



**Diagram 1.** Public involvement in LA&RAP preparation

## 9. Summary – actions requiring the application of OP 4.12.

The World Bank's Operational Policy OP 4.12 applies where the project execution requires the involuntary taking of land resulting in relocation or loss of shelter, the loss of assets or access to assets, the loss of income sources or means of livelihood, or in the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the project affected persons. Pursuant to the Act of 10 April 2003 on special rules of preparing and executing projects involving public roads, which is the basis for this Investment Project, the expropriation of real property or a part thereof, as well as the restriction in using a real property or a part thereof, must be carried out under a road construction consent. As regards transferring the ownership of the real property to the State Treasury, the owner or perpetual usufructuary is entitled to monetary or land-for-land compensation.

As indicated in the foregoing chapters, the investment project will be implemented on 15 real properties being investment plots (before division), and 18 additional plots are located within the project impact zone. The plots which the State Treasury (GDDKiA) is not entitled to use for construction purposes will have to be partially expropriated under the Road Act. Two out of 18 properties being investment plots are owned by natural persons – these include plot no. 351 in precinct 0004 Śródmieście, and plot no. 394/36 in precinct 0004 Śródmieście. Both plots are will be divided to create plots no. 351/1 and 351/2, respectively, where only plot no. 351/1 will be an investment plot, and the other plot will again be divided to create plots no. 394/83 and 394/84 being investment plots. In addition, the owner of one of them has applied that the State Treasury purchase the entire property that he also owns, which property is located in the direct impact zone, and its future use would be restricted.

Furthermore, the implementation of Task 1B.5/2 will directly affect two legal persons – a limited-liability company and a joint-stock company. The property of the limited-liability company will be both acquired for project purposes and restricted in use. For the joint-stock company, which has the right of perpetual usufruct of the property owned by the Municipality of Kostrzyn nad Odrą, the property will not be acquired for project purposes but only restricted in use.

Given the above, this investment project does not imply any significant impacts arising from necessary physical resettlement of households caused by the acquisition of more than 20% of their property. The relocation planned for one of the households will be conducted at the request of its owner, as the property will be restricted in use. Nine properties being investment plots are owned by the Municipality of Kostrzyn nad Odrą, but in this case the impact has been considered to be minor, as the acquisition of property from that entity does not materially affect its position and operations. Additionally, for one entity (Kostrzyn Fortress Museum), the execution of the project may indirectly affect its operations, so this PAP will be subject to impact monitoring and awarded non-financial compensating measures.

The impact on each entity is specified in the sections of Chapter 4.2. 'Social impacts identified for the purposes of Task 1B.5/2' and, for the entity that applied for purchasing the entire property, in Chapter 6.4. Imposing restrictions in the use of real property.

According to the information we have collected, there are five entities entitled to receive compensation upon the decision setting the amount of compensation for real property, including three natural persons (in one case, two co-owners of property), one limited-liability company and the Municipality of Kostrzyn nad Odrą. Additionally, there are seven properties located within the impact range of the Investment Project, which will be restricted in use and for which the right to receive compensation will arise upon the issue of the RCC specifying the manner of using the property, if the