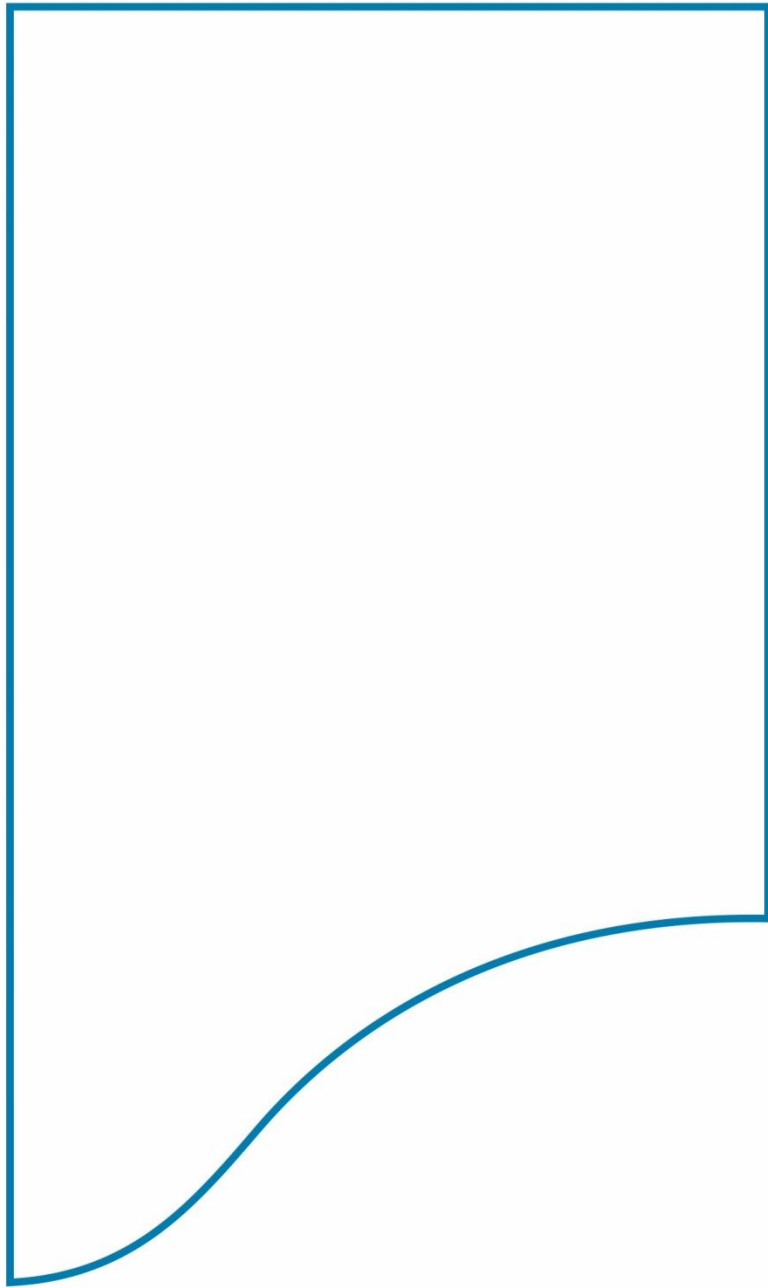


# RESETTLEMENT POLICY FRAMEWORK



## ODRA - VISTULA FLOOD MANAGEMENT PROJECT



Projekt Ochrony  
Przeciwpowodziowej  
w Dorzeczu Odry i Wisły



Państwowe  
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# RESETTLEMENT POLICY FRAMEWORK

**AMENDMENT No. 2**

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## ODRA-VISTULA FLOOD MANAGEMENT PROJECT RESETTLEMENT POLICY FRAMEWORK

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The Resettlement Policy Framework was approved by the World Bank in April 2015.

Amendment No. 1 approved by the World Bank in June 2022.

Amendment No. 2 approved by the World Bank in November 2023.

### ODRA-VISTULA FLOOD MANAGEMENT PROJECT CO-FINANCED BY:

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## Table of contents

1	LIST OF ABBREVIATIONS USED IN THE DOCUMENT .....	5
2	INTRODUCTION .....	6
2.1	RATIONALE FOR RFP CHANGES AND AMENDMENTS.....	6
2.1.1	Amendment no. 1 introduced in June 2022 .....	6
2.1.2	Amendment no. 2 introduced in November 2023.....	6
2.2	OVERVIEW AND OBJECTIVES OF RFP.....	7
2.3	BASIC PRINCIPLES OF RFP.....	7
2.4	PROJECT DESCRIPTION .....	9
2.4.1	Component 1: Lower and Middle Odra River.....	9
2.4.2	Component 2 - Flood protection of the Nysa Kłodzka Valley .....	10
2.4.3	Component 3: The Upper Vistula River .....	11
2.5	POSSIBILITY OF OCCURRENCE OF INVOLUNTARY RESETTLEMENT IMPACTS UNDER THE PROJECT .....	13
3	LEGAL FRAMEWORK.....	15
3.1	OP 4.12 REQUIREMENTS.....	15
3.2	POLISH LAW REQUIREMENTS .....	16
3.2.1	General requirements.....	16
3.2.2	Public consultation .....	17
3.2.3	Appeal procedures .....	18
3.2.4	Special procedures.....	18
3.2.5	EU subsidies .....	19
3.3	ANALYSIS OF INCONSISTENCIES AND CORRECTIVE MEASURES .....	22
4	VALUATION METHODS.....	25
4.1	VALUATION PRINCIPLES.....	25
4.2	PROPERTY VALUATION .....	26
4.3	VALUATION OF MOVABLE ASSETS .....	26
4.4	VALUATION OF PLANTS AND CROPS .....	27
4.5	VALUATION OF OTHER ASSETS.....	27
5	ELIGIBILITY CRITERIA AND CATALOGUE OF ENTITLED PERSONS .....	28
5.1	ELIGIBILITY .....	28
5.2	ENTITLEMENTS .....	29
5.3	MATRIX OF COMPENSATION MEASURES .....	33
6	PUBLIC CONSULTATION ON THE RESETTLEMENT POLICY FRAMEWORK .....	38

- 7 PREPARATION OF RESETTLEMENT ACTION PLANS (RAPs).....39
  - 7.1 INSTITUTIONAL STRUCTURE AND RAP IMPLEMENTATION TEAM.....39
  - 7.2 PROCESS OF RAP PREPARATION AND APPROVAL.....40
  - 7.3 CRITERIA AND PROCESS OF CONDUCTING AN INVENTORY OF PROPERTIES .....44
  - 7.4 CRITERIA AND PROCESS OF CONDUCTING A CENSUS AND SOCIO-ECONOMIC SURVEYS FOR THE PURPOSE OF THE RAP .....44
  - 7.5 PUBLIC CONSULTATIONS .....45
    - 7.5.1 Stakeholders .....47
    - 7.5.2 Informing the public .....47
    - 7.5.3 Public participation in the preparation and implementation of the Project .....48
    - 7.5.4 Negotiations .....49
  - 7.6 GRIEVANCE REDRESS MECHANISMS .....49
- 8 MONITORING AND EVALUATION OF RAP IMPLEMENTATION.....51
  - 8.1 MONITORING OF RAP.....51
  - 8.2 RAP IMPLEMENTATION EVALUATION (EX-POST).....52
- 9 RAP IMPLEMENTATION BUDGET AND FINANCING .....53
- 10 TEMPLATES FOR FURTHER ACTIVITIES .....54
  - 10.1 TEMPLATE NO. 1. OUTLINE OF “THE RESETTLEMENT ACTION PLAN (RAP)” .....54
  - 10.2 TEMPLATE NO. 2. TEMPLATES FOR DESCRIPTION OF THE BASELINE SOCIO- ECONOMIC SITUATION AND MONITORING INDICATORS .....57
- 11 LIST OF ANNEXES .....58

## 1 LIST OF ABBREVIATIONS USED IN THE DOCUMENT

AP	Affected Population
ARMA	Agency for Restructuring and Modernisation of Agriculture
PCU	Project Coordination Unit
Project/ OVFMP	Odra-Vistula Flood Management Project
SWHPW	State Water Holding Polish Water
KZGW	National Water Management Authority
RZGW	Regional Water Management Authority
EIA	Environmental Impact Assessment
PIU	Project Implementations Unit
CAP	Law of 14 June 1960 —Code of Administrative Procedure
RAP/ LA&RAP	Land Acquisition & Resettlement Action Plan
RPF	Resettlement Policy Framework
NBP	National Bank of Poland
NGO	Non-Governmental Organization
SAC	Supreme Administrative Court
PAP	Project Affected People
IPIP	Investment project implementation permit (construction permit)
Special Flood Law	Law of 8 July 2010 on special rules for the preparation and implementation of investments related to flood control structures
RPM Law	Law of 21 August 1997 on real property management
EIA Law	Law of 3 October 2008 on access to information on the environment and its protection, public participation in environmental protection and environmental impact assessments
WB	World Bank
GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data
RAC	Regional Administrative Court
SAC	Supreme Administrative Court

## 2 INTRODUCTION

### 2.1 RATIONALE FOR RFP CHANGES AND AMENDMENTS

#### 2.1.1 Amendment no. 1 introduced in June 2022

During the WB and CEB virtual mission held from September 6-10, 2021, the WB recommended that the RPF be amended to incorporate changes and additional solutions agreed with the WB in the implementation of the Project to date. As a result of the implementation of this recommendation, Amendment No. 1 to the RPF was prepared and consequently received final WB approval ('no objection') during the next WB and CEB mission from June 6-14, 2022 (Aide Memoire Item 72).

Amendment No. 1 primarily concerned: (i) the adoption of a procedure providing PAPs with the option of an upfront payment of 70% of the value of the property in exchange for permission to occupy it in cases where the owner has decided to appeal the amount of compensation; (ii) the establishment of a requirement to obtain the WB's "no objection" for the PAPs only prior to the final public disclosure of the document (elimination of obtaining approval - the so-called "OK" - prior to the public consultation); (iii) the establishment of a requirement to obtain the WB's "no objection" for the PAPs only prior to the final public disclosure of the document. "OK" prior to public consultation) where the planned activities do not involve household or economic resettlement, do not affect vulnerable groups, and there are no pending grievances relating to the task; and (iii) clarifying more explicitly the process of negotiating compensation packages with PAPs in relation to the timetable for conducting reconciliations directly with each PAP.

In addition to the above changes, Amendment 1 also:

- amended the scope of the Project (scope consistent with the current POM);
- included an amendment of the organisational structure of the Project in relation to the reform of the Water Law and the establishment of the PGW WP (State Water Holding Polish Waters), as well as the incorporation of the PCU into the structure of the PGW PW;
- introduced provisions on the rules for voluntary temporary occupation of properties by the Contractor (a procedure that has been applied in the Project since 2017, also agreed with the WB during the mission, but so far not officially introduced in the RPF, but introduced in the POM as part of the first amendment);
- updated provisions on public consultations carried out as part of the RPF development process for individual tasks/contracts in the Project (provisions in line with the current content of the POM);
- added provisions on newly agreed consolidated reporting tables with the WB regarding the acquisition of properties in the Project;
- adapted the document to the requirements of the Project's current Visual Identification System.

#### 2.1.2 Amendment no. 2 introduced in November 2023

Amendment No. 2 was introduced following a recommendation from the WB made during the WB and CEB mission held from March 27 to April 6, 2023, in order include a description of the methodology and tools used to develop the LARAP implementation reports (ex-post evaluation), and to include an assessment of impacts and compensation procedure relating to PAPs that receive EU subsidies on properties impacted by the Project.

## 2.2 OVERVIEW AND OBJECTIVES OF RPF

The Project will provide three distinct areas with flood management infrastructure and related measures: (i) the Middle and Lower Odra; (ii) the Nysa-Kłodzko valley (a medium-sized sub-basin of the Upper Odra); and (iii) selected parts of the Upper Vistula, including in particular the areas of Kraków, and Sandomierz as well as areas located in the Raba, San, Wisłoka, and Dunajec sub-basins. The overall social impact of the Project is positive because it will provide physical protection benefits<sup>1</sup> and protection of health and life as well as property of thousands of people. However, the implementation of the Project may entail some adverse impacts due to the need of land acquisition necessary to implement the investments and related expropriation and economic displacement. Some of the works to be financed involve rehabilitation of existing infrastructure (e.g. rehabilitation of existing dikes and groynes) with limited adverse social impacts. Other interventions such as construction of new structures and dry polders, particularly in the Nysa-Kłodzka Valley and some locations in the Upper Vistula, would require land acquisition involving economic impacts (expropriation of agricultural land) and physical resettlement. It must however be noted that even though no residential buildings will be allowed within the flooding area of the dry polders, all agricultural lands will continue to be accessible for agriculture.

The selection of investments to be supported by the Project and their design was guided by the following criteria: least-cost and lowest-impact variants; economic analyses to select cost-effective options including a risk-based approach to investments; creating “room for the river” and flood wave retention capacity upstream; integration with environmental values and protection of habitats; management plans based on broad consultation with stakeholders; sustained financing through fee collection and/or transfers from the national or regional budgets, and avoidance of significant environmental and social impacts, such as the need to economically or physically displace people.

The key objective of this Resettlement Policy Framework (RPF) is to establish provisions and principles to mitigate or compensate potential adverse impacts to the population due to land acquisition and involuntary resettlement of population that could not be avoided.

A site-specific Land Acquisition and Resettlement Action Plan (RAP) for each investment will be prepared. RAPs will be based on this RPF and will provide detailed information about the land, properties and people affected by each intervention. The RAPs will also define time-bound mitigation measures.

This RPF is in line with Polish regulations and the World Bank’s Operational Policy on Involuntary Resettlement (OP 4.12). In cases where there are differences between local requirements and WB’s OP 4.12, the most stringent and/or beneficial to affected people will prevail.

## 2.3 BASIC PRINCIPLES OF RPF

Unless necessary precautions and preventive measures are taken in advance, land acquisition may result in generating hardship to those affected and cause project delays. The key principles to be followed in the design and implementation of the land acquisition and

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<sup>1</sup> Physical protection benefits include avoidance of, among others: evacuation; inundation of house, factory or other assets to a depth higher than 0.5m, and avoided loss of life and disease. Economic benefits include, for example, the avoidance of temporary or permanent job loss due to closing of factories, and disruption of transportation and communication lines. Social benefits include, for example, avoidance of disruption of normal life conduct, education, health services, as well as the costs of caretaking of family members and neighbors who are affected physically.

resettlement program are as follows:

1. Land acquisition and involuntary resettlement will be minimized or avoided where possible. Where permanent land acquisition is unavoidable, the procedures and requirements outlined in the RFP will be followed to prepare RAPs which relate to mitigation of land acquisition impacts on interested parties.
2. The land acquisition procedures will ensure that the livelihood and living conditions of project-affected people are improved, or at least restored, to pre-project levels.
3. All project affected persons (PAPs) will be meaningfully consulted as well as will have an opportunity to actively and effectively participate in the process of development of the Project and access to grievance redress mechanisms. Consultations should consider all social issues (also gender related) and take into account the needs of stakeholders who may be considered vulnerable.
4. Implementation of effective grievance redress procedures for PAPs and provision of access to legal, fair and accessible proceedings of their appeal before an independent authority or court without intentional delay, if enforced.
5. All cases of land acquisition and resettlement, either permanent or temporary, will undergo procedures based on local regulations and the WB's OP 4.12 in accordance with the RPF and will be detailed for each site in the respective RAP. RAPs must be consistent with the RPF.
6. A RAP relates to permanent land acquisition or temporary land use as well as to permanent or temporary restrictions on the use of a property, in particular resulting in the loss of business income (permanent or temporary) or worse standards of living.
7. The implementation of a RAP will be monitored and documented, whereas after the completion of its implementation a report will be prepared.
8. The process of social participation and protective and mitigation measures will be carried out in accordance with fair treatment regardless of age, sex or disability of affected people. Particular attention will be paid to the households of vulnerable groups.
9. Resettlement plans and land acquisition are designed and implemented as an integral part of the Project. All costs associated with the need to plan and implement compensatory measures will be included in the budget and the Project's benefits.
10. Compensation for affected people due to the Project, in particular persons facing expropriation or land taking, the compensation should be paid prior to the land taking. In cases where the PAP disputes the amount appraised, and the PAP is not facing physical resettlement or livelihood impacts, a procedure is in place to secure the appraised compensation while allowing works to move forward, while national legal-administrative procedures review and rule on the final compensation amount (See section 3.2.4 below).
11. In cases of physical displacement people should be provided compensation and given enough time in advance to secure an adequate relocation place before being displaced.
12. A priority is given to "land for land" compensation in the form of allocation of alternative land of equivalent productive potential, if the investor is able to provide such land and the PAP so desires.
13. Cash compensation will be used in cases where land acquisition has no impact on the possibility of using land for its former purposes as well as in cases where an affected person expresses their will to receive cash compensation.
14. As a general rule, a contractor will be responsible for obtaining the right to temporary land use. However, in exceptional situations (e.g. a property is the only way of access



to the construction site) the PIU may indicate such restrictions in a construction permit application relating to a flood protection investment. In case of temporarily used properties, after the completion of works they will be restored to their original pre-construction condition to enable their owners or users to use these properties in the way they used them before the implementation of the Project.

15. All PAPs, without regard to the legal status of a property, will receive support of various kinds, as per the principles set out in the Entitlement Matrix included in the RPF. Lack of legal title should not be a bar to compensation and/or rehabilitation. Detailed procedures of land acquisition, social participation and protective, preventive, compensatory and mitigation measures will be established in the RAP.

This RPF, as per WB's OP 4.12, applies to **"involuntary resettlement"** which are cases where affected persons do not have the right to refuse land acquisition or restrictions on land use that result in an actual change in property use or has an economic consequence. This occurs in cases of (i) lawful use of eminent domain (i.e. expropriation) or temporary or permanent restrictions on land use; and (ii) negotiated settlements in which the Government can resort to expropriation or impose legal restrictions on land use if negotiations with the owner fail. For example, any properties located within an area declared of public interest could be transferred to the State Treasury.

## 2.4 PROJECT DESCRIPTION

### 2.4.1 Component 1: Lower and Middle Odra River

Component 1 aims to enhance protection against summer floods and winter floods along the Middle and Lower Odra, including Szczecin, Słubice, Gryfino as well as other smaller towns along the river. The activities will include the (re)construction of dikes and other bank protective works (revetments, parapets, and so on), dredging in the Odra river as well as in canals and the harbor of Szczecin, and river training works, that is, the recalibration and (re)construction of groynes and lateral submerged dams in the river, restoration of bends, and protection of banks. In addition, bridges need to be raised to facilitate safe passage of the icebreakers underneath, and navigation and mooring facilities need to be expanded.

All the works necessary for implementation were divided into three Subcomponents, but the investments defined at the initial stage of implementation can change and new investments can be added if the Steering Committee and the World Bank agree to them:

#### **Subcomponent 1A - Flood protection of areas in Zachodniopomorskie Province.**

This Subcomponent includes activities being part of integrated water management in the Lower Odra River basin. The project activities involve, among others, construction of new dikes and improvements to existing flood embankments of the river in order to increase flood safety in adjacent areas as well as works aimed at improving flow conditions for flood waters within the diked area.

#### **Subcomponent 1B – Flood protection of Lower and Middle Odra River**

The works carried out under this Subcomponent are designed to improve conditions for the flow of water and ice in periods of ice jam risk (enabling operation of icebreakers along a long section of the river, improving the carrying capacity of selected bridges, creating proper

docking and mooring facilities, enabling free flow of ice in the estuary section of the river, etc.).

### **Subcomponent 1C – Flood protection of Słubice City**

This Subcomponent comprises strengthening and widening of the existing flood embankment along the Odra River and construction of a new section of the dike protecting the city of Słubice from floods.

#### **2.4.2 Component 2 - Flood protection of the Nysa Kłodzka Valley**

Component 2 is designed to protect against floods the city of Kłodzko and other small towns and villages in the Kłodzko Valley downstream to the city of Bardo at the outlet of the valley. This component comprises the construction of four medium-sized dry polders (active protection), dike improvement and construction, and reconstruction of the river alignments and embankments, as well as of bridges and other structures (passive protection), to allow retention and safe passage of flood waves, accompanied by large amounts of debris, through the Kłodzko Valley. In addition, the works will have significant downstream benefits because the four new dry polders will increase the buffer capacity in the valley, which will cause a reduction in the crest of peak flows in the cascade of reservoirs located on the Nysa Kłodzka River in the middle course of the river, and lower the crest of the flood wave during its passage downstream the towns located along the river, including the Wrocław conurbation. The Nysa Kłodzka River is the one of the main tributaries of the Odra upstream of Wrocław.

Component 2 is implemented in the Kłodzko Valley area that includes the mountain and highland part of the Nysa Kłodzka River sub-basin. The activities planned to be implemented are associated with improvement of flood defenses protecting the population and developed areas. Flood risk in the Kłodzko Valley area is primarily due to the insufficient carrying capacity of the river and stream beds as well as of transport infrastructure, an insufficient number of flood reservoirs, an insufficient number and height of flood embankments, as well as a high density of buildings in areas directly adjacent to the watercourse channels. In many cases, existing flood control infrastructure is also in poor technical condition.

### **Subcomponent 2A – Active protection**

The scope of active protection includes construction of four dry polders. Their task is to reduce flood peaks and flows, which will result in reducing flood risk in the river valleys in which they are situated, indirectly also flood risk from the Nysa Kłodzka River and therefore in the entire Kłodzko Valley. Currently, the number and capacity of the flood reservoirs in the Kłodzko Valley are insufficient and in order to protect the Kłodzko Valley against flood, it is necessary to undertake measures increasing active protection in this area.

### **Subcomponent 2B – Passive protection**

The scope of passive protection originally covered flood protection of areas situated along four main rivers of the Kłodzko Valley: Nysa Kłodzka, Ścinawka, Biała Łądecka with the main left-hand side tributary, the Morawka River, and Bystrzyca Dusznicka River with the main left-hand side tributary Kamienny Potok. As part of the mid-term review of the Project, a decision was made, in agreement with the World Bank, to exclude from the Project the works that were to be carried out along the Ścinawka River. As a result of the planned works, the level of protection of the above-mentioned developed areas will substantially increase.

Passive protection includes the following:

- a) riprap reinforcement of river banks at places prone to bank erosion;
- b) riverbed reinforcement with bed sills at places prone to riverbed erosion;
- c) cutting trees at places where it is required (bottlenecks);
- d) elimination of bottlenecks for the flow of floodwater at places where it is possible without violating the other flood protection principles;
- e) repair/rehabilitation /reconstruction of retaining walls;
- f) increasing the carrying capacity of river channels;
- g) construction of river training walls;
- h) relocations of conflicting utility infrastructure;
- i) increasing the carrying capacity under bridges and/or protection of the riverbed under bridges;
- j) rehabilitation of weirs and sills;
- k) construction of floating debris barriers (the preliminary locations include two cross sections of the Bystrzyca Dusznicka River upstream of the town of Duszniki Zdrój and one cross section upstream of Polanica Zdrój).

### 2.4.3 Component 3: The Upper Vistula River

Component 3 intends to protect the Kraków and Nowa Huta conurbation and industrial area, the Sandomierz-Tarnobrzeg area, and selected towns on tributaries in the sub-basins of the San, Wisłoka, Dunajec, and Raba rivers. The works comprise (i) reconstruction and extension of dikes and embankments along the Vistula to replace old unreliable dikes; (ii) bank stabilization and strengthening with rip-rap and revetments; (iii) construction of dry polders and overflow areas to increase upstream water retention; (iv) river training interventions; and (v) adjustment of existing hydraulic structures (weirs and barrages) to pass larger flood waves. Component 3 also provides for additional technical support in the preparation of the River Basin Management Plan (RBMP) and the investment prioritization plan for the Upper Vistula, applying the integrated water resources management methods to planning complex investments with a large footprint.

In the Upper Vistula area where the Project's Component 3 is implemented, the investments will be carried out within the watercourses with various flow and catchment topography parameters. In the upper part of the Vistula River basin, the watercourses are of mountain and sub-mountain type, they flow through narrow valleys with a high velocity, and their beds consist of coarser materials such as boulders or gravel. In the vicinity of Kraków (the region's capital), the Vistula enters a wider valley and is classified as a lowland river with sand-and-loam bed. Downstream of Kraków, in the vicinity of Sandomierz where the implementation of other project activities is planned to be carried out, the river valley becomes vast and the Vistula River is classified as a large lowland river. In the stretch where the Vistula River is a lowland river, the wide river channel is accompanied by additional river structures, such as side arms, branches, oxbow lakes, and other structures of high biodiversity. In the region where the investments will be implemented, the watercourses have maintained their high natural qualities (many nature conservation areas with different protective measures have been established there).

The planned investments are included under the following Subcomponents, at the same time being the specific objectives of Component 3:

#### **Subcomponent 3A – Protection of Upper Vistula Towns and Cracow**

In order to achieve the effectiveness in protection of the Kraków conurbation, it is necessary to maintain the lowest possible high water levels within this city. This requires construction

of appropriate flood defenses in the city and in the catchment areas of tributaries that feed into the Vistula as well as in the Vistula valley upstream of Kraków. This Subcomponent involves rehabilitation of the Vistula flood embankments in Kraków with a total length of 21 km in three sections. To provide flood protection for a part of Kraków and Wieliczka, it is also planned to construct four dry polders as part of the implementation of the component, including necessary activities to provide stabilization of the Serafa and Malinówka River channels which empty into the Vistula River, together with upgrade of existing dikes and construction of supplementary sections of the flood embankments.

### **Subcomponent 3B – Protection of Sandomierz and Tarnobrzeg**

The Sandomierz Valley is an area of the Vistula confluence with several important tributaries, including the largest Carpathian tributary of the Vistula – the San River. The 2010 flood (the largest in the region's history) caused flooding of a major part of the city of Sandomierz and large-scale flood damage. The implementation of this Subcomponent includes improvements to the flood embankment system of the Vistula River and its tributaries within the backwater extent, including necessary modernization of the system of pump stations protecting the area outside the embankment during high water discharges.

### **Subcomponent 3C – Passive and Active Protection in Raba Sub-basin**

The catchment area of the Raba River is a mountain area of agricultural and forest character. At the same time, the bottom of the valley of the Raba River and its tributaries is a strongly inhabited area. Due to the mountain character of the catchment area, people and their property are threatened by both erosion caused by high water levels and flooding resulting from the natural formation of the area in question. Such phenomena occur jointly during each water rise in the catchment area of the Raba River, causing significant damages.

Due to insufficient retention capacity of the existing reservoir in the Raba River Valley, increasing the flood storage capacity of the existing Dobczyce Reservoir was planned within the Subcomponent, as well as construction of new dry polders on tributaries of the Raba River. The Subcomponent also comprised construction and modernization of flood embankments and retaining walls.

These project activities have been withdrawn from the OVFMP by the Steering Committee's decision of March 7, 2019, which was approved in the amended Procurement Plan of March 20, 2019.

### **Subcomponent 3D Passive and Active Protection in San basin**

The existing flood control facilities do not provide full flood protection in the catchment area of the San and Wisłok Rivers and hence flood damage occurs there every year. Construction of dry polders is tentatively planned as a complement to the existing flood protection system. Apart from the dry polders, embankments are planned to be constructed on tributaries of the San River and on the San itself.

Under this Subcomponent, flood protection activities are also planned in the Wisłoka and Dunajec sub-basins. High flood risk is also associated with the valleys of the Wisłoka River (e.g. in the vicinity of the cities of Dębica and Jasło) and the Dunajec River. In the catchment areas of these rivers, the following categories of works are mainly planned: construction and improvements of flood embankments, construction of dry polders (or overflow areas), and, on a smaller scale, river training works in the river valleys.

## 2.5 POSSIBILITY OF OCCURRENCE OF INVOLUNTARY RESETTLEMENT IMPACTS UNDER THE PROJECT

The key social impacts of project-related temporary or permanent land acquisition for the purpose of implementation of the Project include the following:

- Loss of land (agricultural, non-agricultural, and other);
- Loss of assets (properties, drainage and irrigation channels, fences, crops, trees, etc.);
- Physical displacement of people;
- Loss of community infrastructure or common property resources (e.g. access roads).

The activities carried out under the Project can be divided into two categories:

- linear infrastructure (embankments, retaining walls); and
- site-specific infrastructure (dry polders, individual protection of households, etc.).

Linear infrastructure investments have a small impact on single property owners. Compensation is characterized by a large number of small payments for temporary loss of assets such as, e.g., standing crops. If well designed, linear projects can easily avoid or minimize the demolition of permanent structures.

Land acquisition for linear infrastructure investments differ from that necessary for site-specific infrastructure investments because problems frequently arise due to the need to coordinate land acquisition activities across many municipalities.

In the case of site-specific infrastructure investments, their implementation results in acquisition of farmland, pastures, and meadows, or prevents access to natural resources on which affected populations rely for their livelihoods (for example, sand extraction from the riverbed). In this case, compensation will entail the need to restore income derived from crops or from the use of natural resources.

Moreover, in the case of investments such as the construction of dry polders and passive protection, there is high likelihood of resettlement. Displacement will directly affect a relatively small number of households and its impact on the respective local community will not be significant.

It should be noted that even though no residential buildings will be allowed within the flooded area of passive protection structures (e.g. dry polders), any agricultural land will continue to be available for economic activities to the project-affected population (excluding the possibility of erecting any structures on such land).

Regardless of compensation for losses, in some cases permanent land acquisition may result in worse quality of life due to limited access to:

- educational institutions in case of children and teenagers at school age;
- nurseries, kindergartens or day-care services in case of young children and their parents;
- medical centers, which can be of great importance for the elderly, the disabled or chronically ill people;
- cultural institutions, recreation areas, and sport facilities.

There can also be some psychological costs: stress related to the loss of the previous place of living and adaptation to a new place of living. Therefore, as part of the implementation of the Project, support and safeguard measures are planned to be carried out which will allow negative effects for PAPs to be avoided or mitigated.

The negative effects of permanent acquisition or restrictions on land use within the area of the dry polders will be mitigated through appropriate and fair compensation packages prepared in whole at the initial project design stages according to the procedures defined in the RPF.

Costs associated with the loss of a job or a business are subject to compensation. People who may lose their jobs due to the implementation of the Project will receive support from local Employment Offices. Nevertheless, this does not guarantee that there will be a demand for PAP's skills outside their lost workplaces and it can result in the need of training and retraining, which will be a burden for local administration agencies and PAPs. This also concerns people who own or use cropland in the areas designated for the investments. Where farmland loses its usable value, people who use it lose their sources of income and this is subject to compensation.

There can also be a permanent or temporary deterioration in business conditions for enterprises, in particular in the case of difficulties in road or public transport (limited access to customers, limited access for suppliers).

Due to the need of temporary land use in order to carry out construction work, it may also be necessary to exclude a particular property from agricultural use or there may be difficulties in conducting business activity in a property.

However, it should be indicated that the above-mentioned social impacts are temporary and in most cases reversible. In the case of farmers and businessmen, negative impacts may result in a reduction in income from their business activities, while in sporadic cases, in a temporary loss of income. Since most businesses operating in the area concerned are self-employed people or small businesses employing up to 10 people, a reduction in income or loss of income can be of significant importance for them.

Positive social impacts, that is, benefits for a local community, are directly related to the objectives of the investments. The long-term benefits include the following:

- Reduction or elimination of flood risk (including flood risk related to ice jams);
- Protection of private or public land and property , including properties and farmland;
- Improvements to public infrastructure, in particular on rivers (weirs, bridges, embankments), which result in restoration of the economic function of rivers.

Due to such improvements, the landscape will gain new qualities and new recreation and leisure areas will be created (canoe trails, riverside boulevards, bathing beaches), which may contribute to increased tourist attractiveness of such areas. Improvement in the navigability of rivers will also promote a potential increase in water tourism.



### 3 LEGAL FRAMEWORK

The Resettlement Policy Framework for the Odra-Vistula Flood Protection Project is based on national laws and since this Project is financed from World Bank funds it must comply with the WB's Policy OP 4.12, Involuntary Resettlement. The Loan Agreement between Poland and the World Bank is an international law act and by entering into it, Poland is obliged to follow the World Bank's policies. Whenever there is a difference between local regulations and the WB's policies, whichever is more stringent and/or is more favorable to the affected people, will prevail.

#### 3.1 OP 4.12 REQUIREMENTS

OP 4.12 Involuntary Resettlement is applied whenever the implementation of the Investment requires:

- a) involuntary taking of land resulting in:
  - relocation or loss of shelter,
  - loss of assets or access to assets,
  - loss of income sources or livelihood
- b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons.

To address the impacts of these activities, the Borrower is obliged to prepare a Resettlement Policy Framework or a Resettlement Action Plan depending if the specific interventions and related impacts have been identified or not. OP 4.12 also states that:

- Involuntary resettlement should be avoided, where feasible exploring all viable alternative project design, and if it is not feasible to avoid resettlement, its range and impact should be minimized;
- Resettlement process should be planned and implemented as development activity providing means and assets allowing PAPs to participate in benefits resulting from implementation of the investment. Support should be offered to social groups affected by resettlement in order to improve their economic status, income and livelihood, or at least restore their status;
- Before resettlement (or before the contractor uses a property), the resettled should receive full compensation at replacement value, assistance in relocation, and support in the transition period<sup>2</sup>;
- Lack of legal title to the land should not bar compensation;
- Particular attention should be paid to vulnerable social groups and individuals (e.g. single mothers, the handicapped, the poor);
- The communities should be given opportunity to participate in planning, implementation and monitoring of the resettlement process;

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<sup>2</sup> In the case that disputes exist regarding the appraised value for compensation of land, a procedure has been established for the Project that allows for national legal and administrative processes to review and rule on these amounts, while securing the PAP's original appraised amount and allowing works to move forward. See section 3.2.4 for details on this procedure.

- The resettled should be assisted in integration with the host community;
- Process of resettlements should be closely linked to the schedule of the main investment so that the resettled people receive compensation before the construction or other activities covered by the Project begin;<sup>3</sup>
- Monitoring of resettlement and evaluation of its efficiency should be conducted;
- As regards rural or farming lands, even when it is possible to apply financial compensation, land-for-land compensation is recommended, if economically feasible. Any farm that lost their fixed assets entirely and became entirely unprofitable should receive compensation in the amount equal to the value of the entire farm;
- For losses that are hard to compensate for financially, such as access to public services, access to clients or suppliers, fishery areas, access to pastures and forest areas, an attempt should be made to grant access to equivalent and culturally relevant resources and income opportunities.

## 3.2 POLISH LAW REQUIREMENTS

### 3.2.1 General requirements

In general, compensation of social impacts resulting from implementation of flood investments is subject to the provisions of applicable laws, among which the most important are the following:

- the Law of 3 October 2008 on access to information on the environment and its protection, public participation in environment protection and environmental impact assessments (hereinafter the EIA Law);
- the Law of 8 July 2010 on special rules for the preparation and implementation of investments related to flood control structures (hereinafter the Special Flood Law); and
- the Law of 21 August 1997 on real property management (the RPM Law).

In accordance with the EIA Law, one of the criteria considered by the authority assessing if an environmental impact assessment (EIA) is required for a project is the area of the project and the number of people affected by its impacts, along with the population density. Moreover, during the EIA it is necessary to carry out an assessment of its impact on the people and physical assets as well as to conduct an analysis of social conflicts. The EIA Law also imposes an obligation to carry out a public consultation during the EIA process and obliges to refer in detail to the comments and suggestions submitted during the consultation. The EIA is carried out during the first stage of issuing approval to the implementation of the investment (as a part of the environmental permit procedure), which allows for early assessment of social impacts associated with the implementation of flood investments and appropriate mitigation and prevention measures to be proposed.

The mechanisms directly associated with the loss or limitation of the ownership right and other property rights to real estate as well as with the loss or limitation of rights resulting from rental and lease agreements are provided in the provisions of the Law of 8 July 2010 on special rules for the preparation and implementation of investments related to flood control structures and the Law of 21 August 1997 on real property management. Expropriation of a property or its part as well as permanent or some temporary restrictions on the use of a property or its part

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<sup>3</sup> The special procedures that are designed to ensure the implementation of this requirement are described in section 3.2.4.



are affected based on a construction permit issued by the competent Voivode. Expropriation occurs when the construction permit becomes final.

Prior to issuing the construction permit, a party may demand from the investor that the expropriation application covers the property owned by the relevant party or its part which will no longer be fit for its current use after implementation of the project. If the investor does not consider expropriation of such additional part to be necessary, the party may file a claim for purchase of such land to an independent common court.

In consideration of transfer of the ownership of a property to the State Treasury, its owner or the holder of usufruct rights (i.e. the legal right of using state land under 99-year lease) is entitled to cash or land-for-land compensation. The Special Flood Law does not indicate any preference for land-for-land compensation; cash compensation is rather assumed which should allow a similar property to be purchased at a market price.

The amount of compensation is determined separately for each property through individual negotiations of the investor with its former owner or the holder of the usufruct right. The negotiations are based on an independent and objective valuation prepared by a licensed appraiser.

The amount of compensation is determined according to the condition of the property as of the date of issuance of the construction permit, but in reference to the value of the property as of the date on which the amount of compensation is determined.

In case the investor and the expropriated party reach agreement as regards the amount of compensation, a written agreement is concluded, which determines the amount of compensation and the time and manner of its payment. However, if agreement cannot be reached within 2 months from the date of issuance of the final construction permit, the amount of compensation is determined by the Voivode by issuing a compensation decision. Before issuing such a decision, the Voivode appoints an independent property appraiser. The affected party is also entitled to present an opinion of his/her own certified property appraiser. In such case, the Voivode has to refer to the opinion presented by the affected party when issuing the decision determining the amount of compensation. If the affected party files comments and motions in the course of the proceedings, the Voivode has to substantively refer to them during the proceedings and subsequently in the compensation decision issued. The decision issued by the Voivode may be appealed against by the relevant party. It is also possible to propose to the PAP to enter into a settlement agreement before the Voivode or the minister competent for construction. Such a settlement agreement requires approval by the public administration authority before which it is made.

### **3.2.2 Public consultation**

Procedures regarding public consultations are provided for in the EIA Law. According to this law, consultations are carried out under an EIA. The EIA is conducted as part of the environmental permit procedure, but if the investor has made changes in the design relative to the one based on which the environmental permit was issued, an EIA will also be carried out under the construction permit procedure.

Moreover, in accordance with the Law of 14 June 1960 – Code of Administrative Procedure (hereinafter CAP), at all stages of the investment process project affected persons (PAPs) are individually informed on any activity undertaken by the authorities issuing the permit and about all documents filed by the investor.

PAPs are entitled to actively participate in the proceedings at any stage, file comments, motions, documents, their own opinions, expert opinions, etc. All case files concerning the proceedings

are open to such persons and have to be made available to them on request. The authority is obliged to refer to all comments, motions, letters, etc., filed by the party. It is also possible to hold an administrative hearing, open to PAPs (parties), in particular if there are disputes concerning any aspect of the case.

### 3.2.3 Appeal procedures

In accordance with the provisions of the Code of Administrative Procedure (CAP), each administrative decision, including a construction permit and the Voivode's decision determining the amount of compensation for expropriation, may be appealed by the affected party by filing an appeal to the higher instance authority (the minister competent for construction). The CAP obliges administration authorities to attach to any administrative decision instructions which indicate the time limit for filing an appeal, the authority to which the appeal should be filed, and the manner of filing an appeal. Filing an appeal is free of charge.

Where an expropriated party files an appeal against a decision determining the amount of compensation, the party may file a request to pay compensation at the amount specified in the appealed decision. In such case, compensation is paid at the amount determined in the compensation decision, which does not affect the appeal proceedings.

A decision issued in the appeal proceedings may be further appealed against to the Regional Administrative Court (RAC) within 30 days from the date of delivery of the judgment to the appellant. In turn, a cassation appeal against the judgment of the Regional Administrative Court may be filed to the Supreme Administrative Court within 30 days from service of a copy of the judgment, including its justification, to the relevant party.

If a construction permit is appealed against, all activities (property valuation and communications with the PAP and compensation arrangements) should continue and the payment of compensation will be made after the construction permit has become final. In such case, given the recommendations specified in OP 0.12, no construction work may be carried out until compensation has been paid. An exception can be the solution that involves the payment of 70% of the value of compensation, which is described in detail in section 3.2.4.

If an entitled person refuses to accept compensation or the payment of compensation meets obstacles that are difficult to overcome, or compensation for expropriation relates to a property with an uncertain legal status, compensation will be placed in a court escrow account.

### 3.2.4 Special procedures

Based on Art. 133 of the RPM Law, the Investor places the compensation amount in a court escrow account in accordance with the Voivode's administrative decision that obliges the Investor to pay the compensation into the escrow account, which is equivalent to the performance of the payment obligation. This occurs only in two cases:

1. If an entitled person refuses to accept compensation or its payment meets obstacles that are difficult to overcome (the lack of legal capacity of the entitled person, no possibility of contact, e.g. due to his or her long absence in the country without having appointed a legal representative, natural disasters, state of war);
2. Where expropriation compensation relates to a property with an uncertain legal status.

Placement of the compensation amount into a court escrow account has the same effects as the performance of the payment obligation. In accordance with OP 4.12, a project affected person does not bear any cost in this respect.

The above procedure can only be applied after a compensation decision has been issued by

the competent authority.

In cases where PAPs disagree with the amount appraised for their property, a special procedure has been adopted by the Project that was approved during the joint implementation support mission of the World Bank and the Council of Europe Development Bank that was held in March 2018 (Aide Memoire, paragraph 38).

This procedure aims to reduce the adverse impacts caused by lengthy administrative procedures to determine the final compensation amount for both: (i) PAPs awaiting rapid compensation for their properties; and (ii) the Project, as this Procedure allows for investments to move forward with land acquisition and the commencement of works in expropriated properties.

The procedure is as follows:

1. The PAP is entitled to the full appraisal value established by the Project, regardless of the pending administrative proceedings to determine compensation.
2. The PIU will offer to the respective PAP an initial payment of 70% of the value of the property as determined in a property valuer's appraisal commissioned by the PIU and presented to the PAP. This amount will be secured by the PIU so that it can be paid at any time at the PAP's request and after a relevant agreement has been signed. Acceptance of this payment will not mean the PAP's acceptance of the amount of compensation determined in the appraisal and will have no negative effect on the proceedings to determine compensation for the expropriated property conducted by the Voivode or another administrative authority.
3. The remaining part of the compensation will be settled and paid to PAP, after the final decision establishing the amount of compensation is obtained, up to the amount determined in that decision. If, in the course of the administrative proceedings, it turns out that the value of the property established therein is lower than that originally estimated by the Investor during the 2-month negotiations, the Investor will propose to PAP to conclude an administrative settlement, consisting in determining the amount of compensation based on the earlier higher valuation. Such a settlement requires the approval of the public administration body before which it is concluded.

### 3.2.5 EU subsidies

Among the properties expropriated for the purpose of investment implementation within the Project, there may be agricultural properties covered by aid schemes, i.e. those for which the owners/holders receive subsidies or aid is provided. Expropriation of these lands will result in the impossibility of fulfilling obligations assumed by the farmer-beneficiary in agreements with the state accredited paying agency, i.e. the Agency for Restructuring and Modernisation of Agriculture (ARMA), within the framework of particular programmes. This, in turn, may be associated with certain consequences, including the need to return payments collected, as well as administrative penalties. The solution to this problem is the introduction at the level of European Union regulations of a special mechanism and definition of the so-called 'force majeure', clearly preventing the farmer from fulfilling their contractual obligations. These regulations contain an open catalogue of situations where force majeure is involved. Within this catalogue, force majeure includes, inter alia, the expropriation of property. However, the application of this mode requires initiative on the part of the farmer-beneficiary. This is because the farmer must report the occurrence of force majeure (here: expropriation and/or permanent

restriction of the use of the property) to the Head of the District Office of ARMA in writing with relevant evidence (in this case, a copy of the decision on the basis of which the property was expropriated) within 15 working days counted from the day on which they or a person authorised by them are able to perform this action (in the case of RDP (Rural Development Programme) 2007-2013, the deadline is 10 working days). The Head of the District Office of ARMA then conducts appropriate administrative proceedings and determines whether force majeure occurred by means of a decision.

Consequences of issuing a decision stating the occurrence of force majeure:

- for RDP 2007-2013 and 2014-2020 (commitments and multiannual payments): there is no requirement for the farmer-beneficiary to return part or all of the aid received for previous years, for the year in which force majeure occurred aid may be granted in a reduced amount, commitments or payments are continued in accordance with their original duration (provided that eligibility parameters are met, e.g. minimum area), moreover, no administrative penalties are applied with regard to the so-called cross-compliance;
- for direct payments: aid received is not reimbursed, the beneficiary retains the right to payments under the direct support schemes for the area or animals that were eligible at the time of the force majeure for payments under the direct support schemes.

It should be recognised that force majeure will also be encountered in the case of properties or parts thereof which are part of an investment, necessary for its operation, which do not become the property of the State Treasury, but in respect of which the manner of use is permanently restricted (so-called "permanent restrictions") and so-called "residuals" (properties purchased at the request of a party in a situation where part of the property is taken over and the remaining part is not suitable for proper use for the current purposes). The time limit for reporting the occurrence of such force majeure and the proof of its occurrence - as in the case of expropriation - will be derived from the decision on the basis of which the expropriation of the property took place (e.g. IPIP). This is because, in this case, force majeure was also caused in connection with the expropriation of the property, except that it did not deprive ownership of that part of the property specifically, but resulted in the impossibility of using it for its previous purpose (e.g. agricultural). Similarly, in the case of permanent restrictions, if, of course, they have caused the impossibility of using the property in accordance with the obligation assumed by the farmer.

In order to enable the farmer-beneficiary to properly fulfil their contractual obligations and not to be subjected to damages as a result, it will therefore be necessary to take appropriately selected identification, mitigation and compensation measures. PAPs should be adequately informed of the need to report within the required timeframe to the Head of the District Office of ARMA information on the occurrence of force majeure (expropriation and/or permanent restriction of the use of the property), which clearly prevents the fulfilment of contractual obligations.

Examples of mitigating measures that will, inter alia, allow to avoid the need for farmers to repay subsidies:

- carrying out a wide-ranging information campaign, at each stage of the development and implementation of the LARAP, including surveys (among all PAPs), on what steps should be taken to avoid negative consequences, including repayment of collected subsidies,

- monetary compensation - the farmer-beneficiary will receive compensation for the expropriated property and may, with the funds received, purchase (lease) a property with similar production potential and declare it for subsidies/assistance (if possible under the given measure),
- the amount of compensation (monetary compensation) for the expropriated property will be determined by an independent valuer. The valuation will take into account, among other things, the value of the expropriated property in terms of the possibility of receiving subsidies/assistance.

### 3.3 ANALYSIS OF INCONSISTENCIES AND CORRECTIVE MEASURES

OP 4.12	Polish law	Corrective measure
<p>Lack of the legal title to the land should not bar compensation. People without the legal title are eligible for compensation.</p>	<p>The Polish legal system does not recognize the right to compensation for owners/users of land who do not hold the legal title to it (except for people whose legal title to a property was lost or who acquired the title by usucapion (method by which the ownership of a property (i.e. the title to the property) can be acquired by uninterrupted possession of the property over the period of time defined in the relevant law).</p>	<p>In case of people without the legal title to a project affected property, each such case should be analyzed individually in terms of the possibility of applying the general mechanisms defined in the Civil Code in order to achieve the objectives of OP 4.12. As per OP 4.12, project affected people without the legal title to a property will be not eligible to receive cash compensation for the property. However, they will be eligible for compensation for any structures, crops or improvements to the land that were done before the cut-off date and to receive adequate solutions in cases where they have to be physically or economically displaced. In such cases, appropriate mitigation measures will also be applied.</p>
<p>The WB policy requires compensation for the loss of income (e.g. from business or agricultural activity, etc.) due to the taking of land for the purpose of implementation of a planned investment.</p>	<p>Provisions of Polish law do not provide for compensation for the loss of income resulting from the implementation of an investment.</p>	<p>Persons who lost income or employment will receive support (health insurance, professional trainings, etc.) from the employment offices. In case of entrepreneurs, it is possible to apply general mechanisms provided for in the Civil Code (covering loss suffered and lost profits).</p>
<p>Particular attention should be paid to especially vulnerable social groups, in particular the poor, the elderly, single mothers, children, ethnic minorities.</p>	<p>Polish law does not require planning specific measures aimed at additionally assisting especially vulnerable social groups (the elderly, the handicapped, the poor, and other groups with special needs).</p>	<p>The Project will grant to the affected people help in obtaining assistance from the relevant offices and institutions. Additional measures will be implemented as needed to ensure that the objectives of OP 4.12 are met.</p>
<p>The WB's policy requires additional compensation for expenditures associated with physical relocation which have been incurred by PAPs (e.g. transportation of materials) and providing assistance in resettlement.</p>	<p>No assistance is provided for to cover resettlement costs and other similar costs arising from the need to relocate to a new place of residence by PAPs and enterprises.</p>	<p>In order to cover relocation costs and other similar costs, it is possible to apply the general mechanisms provided for in the Civil Code in order to achieve the goals specified in OP 4.12.</p>



<p>The payment of compensation should be made prior to physical occupation of the land for the purpose of implementation of an investment.</p>	<p>The Special Flood Law allows taking the land and commencing works before compensation is paid.</p>	<p>In all cases, no work will begin until there is documented evidence that the project-affected person has been informed well in advance about the commencement of works, compensation has been paid, and permission has been obtained to enter the land. In cases of disputed land values, the procedure described in section 3.2.4 can be implemented.</p> <p>The only exceptions are cases where the appeal procedure has been initiated because negotiations have failed, the absence of the owners or in the event that the owners cannot be established.</p> <p>The only exceptions are as follows: negotiations with a PAP have failed and the case is pending before court, an inheritance case is in court, the owner of the property cannot be established or where the State Treasury is the owner (in these cases, as per Polish law, the compensation amount will be put into an escrow account and the money will be available to the relevant PAP once the court has issued a ruling or the owner is located) or cases where the owner is the State Treasury, a local government unit or another public entity.</p> <p>To minimize the risk of starting works before compensating for losses, land acquisition should be planned and conducted well in advance before the commencement of works.</p>
<p>Compensation for the loss of assets is based on their market value plus any transaction costs (e.g. taxes and registration fees) and it should be sufficient to effectively replace any assets lost (replacement value).</p>	<p>Applied methods of valuation can result in underestimating the value of a property compared to prices of similar properties in the local market.</p>	<p>Valuation of a property will be conducted by an independent and experienced property appraiser. The appraiser's opinion should be verified by the PIU. The expropriated party should be granted sufficient time to familiarize himself/herself with the appraiser's opinion. Should there be any doubts regarding the sufficiency of the due amount of compensation, valuation of the property should be conducted by an independent appraiser under the proceedings before the Voivode.</p> <p>In all cases, an effective replacement value must be achieved.</p>

<p>It is required to prepare a socio-economic baseline and a Resettlement Action Plan, and to monitor compensation measures, resettlement and livelihood restoration measures as well as to evaluate all the a.m. measures.</p>	<p>Provisions of Polish law do not provide for an obligation to prepare a socio-economic baseline and prepare a Resettlement Action Plan as well as there is no obligation to monitor or evaluate their implementation.</p>	<p>Socio-economic baselines and Resettlement Action Plans will be prepared in accordance with the RPF, OP 4.12, and good practices.</p>
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## 4 VALUATION METHODS

### 4.1 VALUATION PRINCIPLES

The owner or the perpetual usufruct holder of a property or its part on which a flood management investment is carried out is entitled to compensation for the transfer of the ownership of the property to the State Treasury or a local government.

In all cases, compensation must correspond to the replacement value of a property, which means the market value of the property and related assets (e.g. plantings) plus any transactions costs required to replace it, such as taxes and registration fees. Compensation is determined on the basis of a valuation made by a licensed property appraiser (referred to in the RPM Law, Section V Chapter 1), and if necessary, by a team of certified property appraisers (which includes, e.g., a certified property appraiser in the area of agriculture, forestry, etc.). Issues concerning property valuation, including the determination of the property value, are governed in Polish law by the provisions of the RPM Law, Section IV, and the Regulation of the Council of Ministers of September 21, 2004 on the valuation of a real estate property and the preparation of a property valuation report.

According to OP 4.12, with regard to land and structures, "replacement cost" 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 affected land, plus the cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; 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 affected land, plus the cost of any registration and transfer taxes; and c) for houses and other structures, it is the market cost of the materials necessary to build new houses and structures in order to replace the houses and structures affected by the implementation of the project, with an area and quality similar to or better than the expropriated houses or structures or partially affected by the implementation of the project, plus the cost of transporting building materials to the construction site, the cost of any labor and contractors' fees, and the cost of any registration and transfer taxes associated with the construction of the new structures.

In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where Polish law does not meet the standard of compensation at full replacement cost, compensation under Polish law is supplemented by additional measures so as to meet the replacement cost standard, such as support after displacement, for a transition period, based on a reasonable estimate of the time likely to be needed to restore livelihood and standards of living, etc.

Compensation is paid by, respectively, the State Treasury or the relevant local government at an amount agreed between the investor and the former owner, the holder of perpetual usufruct or any person that has a limited property right to the property. In all cases, such compensation should be, at least, at replacement value of the property.

If a construction permit relates to family allotment gardens established pursuant to legislation governing family allotment gardens, the entity in whose interest a family allotment garden complex or its part will be removed is obliged to:

- pay allotment garden holders compensation for plants, assets and structures belonging to the allotment holders and located in affected allotments;

- pay the respective association of allotment gardeners compensation for assets, buildings and structures located in the family allotment garden complex which are designated for shared use by the allotment users and serve the proper functioning of the allotment garden complex;
- secure, if possible, replacement land for the purpose of restoration of the family allotment garden complex.

In the case of flood protection projects, the amount of compensation is determined according to the condition of a property as of the date of issuance of a construction permit by the first instance authority and according to the property's value as of the date on which the amount of compensation is determined. Compensation is subject to indexation as of the date of payment according to the rules applicable in the case of return of expropriated property. Compensation is determined based on a valuation made by a professional property appraiser.

## 4.2 PROPERTY VALUATION

The amount of compensation is determined on the basis of the market value of a property. In determining the market value of a property, the following factors in particular are taken into consideration: its type, location, use and zoning, existing technical infrastructure, the overall condition of the property, and current market prices. The market value of a property is determined according to its current use if the property's intended use, according to the purpose of the investment, does not increase its value. If the data from the local or regional real property market allow the market value of the property to be determined, the property appraiser should determine this value by applying one of the market approaches, i.e. the sales comparison approach, income capitalization approach, or mixed approach. If the property's intended use, according to the purpose of the investment, increases the property's value, its market value is determined according to the alternative use resulting from the new zoning of the property. If the data from the local or regional real property market are not sufficient to determine the market value of the property, the property appraiser determines the replacement value of the property on the basis of the cost approach.

If the former owner or perpetual usufruct holder of a property included in a construction permit surrenders this property or surrenders this property and vacates the dwelling and other premises, respectively, not later than within 30 days, the amount of compensation is increased by 5% of the value of the property or the value of the title to perpetual usufruct.

## 4.3 VALUATION OF MOVABLE ASSETS

Movable assets will also be compensated in cases where: a) they are not fit for use in the new location and/or b) a PAP will no longer use them as a result of resettlement (e.g. moving from a rural to urban dwelling). The property appraiser determines the value of movable assets (e.g. machines and equipment) on the basis of the following data: brand, model and type, year of production, producer, place and date of production, as well as other data necessary to identify the asset.

The book value of such movable assets may increase or decrease in the process of valuation. Reasons for the decrease can in particular be of technical (wear and tear), functional (modifications in terms of material or construction) or economic nature (lack of particular raw materials or workforce, changes in legislation, decreased demand). In valuation of assets, the valuer will apply the cost approach or the sales comparison approach.

## 4.4 VALUATION OF PLANTS AND CROPS

In valuation of a forest stand or a tree stand, if the tree stand includes usable materials, the value of timber in the tree stand is estimated. If the tree stand includes no usable materials or if the value of timber that can be obtained is lower than the costs of reforestation and maintenance of the tree stand, the costs of reforestation and maintenance of the tree stand until the day of expropriation are estimated.

In valuation of plantations with long-term cultures, costs of establishing the plantation and its maintenance until the first harvest as well as the value of lost profits in the period from the date of expropriation until the date of completion of the full harvest are estimated. The aggregate of costs and the value of lost profits are reduced by the sum of the yearly depreciation charge, resulting from the period of use of the plantation from the first year of yield until the day of expropriation. Valuation of sown and standing crops, and other annual crop harvests involves the valuation of the expected yield according to current market prices, less the value of necessary expenditures related to harvest of such crops.

## 4.5 VALUATION OF OTHER ASSETS

Other assets related to real property are civil benefits, that is, income derived from a property on the basis of a legal relationship. When valuating obligation rights (including the rights of tenancy, lease, lending and life annuity) and their impact on the property, the property valuer 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 considerations;
- method and dates of payment of rent and other considerations;
- rights and obligations arising from the obligation rights and contracts concluded;
- the parties' claims related to the settlement of expenditures made with respect to the property; and
- available information concerning the property being valued and the specific type and section of the market involving obligation rights.

## 5 ELIGIBILITY CRITERIA AND CATALOGUE OF ENTITLED PERSONS

### 5.1 ELIGIBILITY

Each Project Implementation Unit (PIU) must determine and disclose the eligibility criteria according to which PAPs will be considered to be eligible for compensation and other assistance in connection with expropriations. This procedure must contain provisions concerning consultations with individual PAPs, households, local community leaders, local authorities, and, where appropriate, also NGOs.

According to the World Bank's policy OP 4.12, the following people or groups of people are eligible for compensation and assistance in connection with land acquisition resulting in loss of assets and economic and/or physical displacement:

- a) persons that have formal legal rights to land or other assets affected by the Project's impacts (including customary and traditional rights);
- b) persons that have no formal legal title to land at the time the census begins, but who have a claim to such land or assets based on national legislation or become identified during work on the Resettlement Action Plan; and
- c) persons that have no recognizable legal title or claim to the property they are occupying.

Persons under paragraphs (a) or (b) above should receive compensation for the lost land and other assistance. Persons under paragraph (c) should be provided with resettlement assistance in lieu of compensation for the land occupied and other assistance, as necessary, to achieve the objectives of OP 4.12, if they occupied 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 included in paragraphs (a), (b), or (c) should receive compensation for the loss of assets other than land.

Thus, the lack of a legal title to land as such should not preclude receiving compensation or other assistance offered in connection involuntary land acquisition.

It should be stressed that persons who have no title to land are few. Moreover, persons using a property without a legal title are aware of the illegality of their actions and of the fact that the property may return to the rightful owner at any time without financial compensation.

The following sections determine the categories of impacts on PAPs, the categories of PAPs, and the eligibility criteria for each category. The rights of each category of PAPs are also specified. An assumption is made that the primary criterion of PAPs' eligibility is the location of their properties or other assets within the Project area prior to the cut-off date, which is determined following the completion of the census and inventory.

Properties directly affected by the planned investment should be included in the planned investment area. Particular attention ought to be paid to verification of those claims which might result in harm to particularly vulnerable groups of PAPs. In the case of any doubt, local authorities or leaders of the local community should be consulted.

Eligible for compensation are persons present in the project implementation area before the cut-off date, unless it is proven that the owners of properties located in the area designated for the implementation of the Project or the farmers who have crops in this area have already received adequate compensation in connection with the implementation of the Project, in accordance with the requirements of OP 4.12.

The following groups of PAPs are also deemed eligible for compensation or protective measures in connection with the implementation of the Project:

- a) owners and perpetual usufruct holders of properties (including properties with buildings), independent possessors or persons who have disposal of properties like owners, perpetual usufruct holders or independent possessors, but without a legal title;
- b) tenants, lessees, life annuitants and other dependent possessors of real property and persons who hold a property like a dependent possessor, but without a legal title;
- c) persons who have a limited property right to a property, such as easement, mortgage, pledge, usufruct and a cooperative member's ownership right to a residential dwelling as well as persons who exercise such rights with respect to a property without a legal title;
- d) owners of crops, plants, buildings and other structures attached to the land;
- e) PAPs who lose their income, workplace or wages, or cannot carry out business activity as a result of the implementation of the Project.

In terms of time limit, eligibility for compensation will be limited by the cut-off date determined for each project activity separately and approved by the World Bank. The cut-off date will be set as the date of commencement of the census of properties and of the socio-economic survey and it will be publicly announced. When determining the cut-off date, however, it should be taken into consideration that under Polish law PAPs who have legal titles to properties expropriated for the purpose of implementation of a project are entitled to cash compensation or land-for-land compensation under the condition that they held such legal titles on the date on which the investor submitted the construction permit application.

In turn, persons who possess a property within the project implementation area, yet whose current place of residence or abode cannot be established still remain eligible for compensation. Therefore, all possible and legally permissible steps will be taken in order to establish their location and transfer compensation to them. In the event that their place of abode cannot be established, compensation will be placed in an escrow account, whence it can be retrieved by the entitled person at any time.

## 5.2 ENTITLEMENTS

Eligibility for compensation and assistance will be determined according to the following principles:

- PAPs legally possessing properties in the project area will receive full compensation, applying the land for land principle on a priority basis;
- PAPs being lessees, tenants, life annuitants and other dependent possessors of a property in the project area will receive full compensation for the loss of such rights;
- PAPs being holders of limited property rights to properties will receive full compensation for the loss of such rights;
- owners of crops, plants, buildings and other structures attached to the land will receive compensation for such crops, plants, buildings and structures;
- residents of houses and flats subject to resettlement will receive, apart from compensation according to the rules specified above, resettlement assistance, adequate access to social infrastructure and, if necessary, a package of individually selected protective measures;

- PAPs who lose their income, wages or the possibility to conduct business activity in connection with the implementation of the Project will receive adequate compensation and, if necessary, a package of individually selected protective measures;
- PAPs illegally possessing properties in the project's area who have no legal title and no expectant right to obtain a legal title will receive no compensation for expropriation from the property since it is not possible under Polish law. However, such persons will receive compensation for plants and structures owned by them and, if necessary, a package of specially selected protective measures required to restore or improve their quality of life.

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

- **Permanent loss of land:** - Where possible and where a PAP expresses such a will, the loss will be compensated in the form of "land for land" by allocating a property of similar value, location and functions as the expropriated property. If it is not possible to find a property that meets the criteria of adequate compensation, a PAP will not express the will to receive compensation in the form "land for land", or if only a small part of the plot is subject to acquisition, compensation will be paid in cash and will correspond to the market value of the expropriated property or any part thereof. In addition, for immediate surrender of a property it will be possible to increase the compensation by an amount corresponding to 5% of the value of the expropriated property according to the rules provided for in the Special Flood Act. In turn, PAPs not being owners or perpetual usufruct holders, but holding a legal title to the property (e.g. tenants, lessees) will receive compensation corresponding to the value of their expropriated rights. At a PAP's request, the investor will take over the property in whole and compensate for the acquisition of this property according to the aforementioned principles. Any transaction costs, including taxes related to the granting of compensation for expropriation, will be covered by the investor. PAPs who possess properties in the project's area without any legal title (illegally) will not be granted any compensation for the expropriation of the property. However, they will receive compensation for plants, plantings, and structures belonging to them and, if necessary, a package of protective measures required to restore or improve their quality of life.
- **Permanent restrictions on the former use of a property** will be compensated in cash, as a rule, taking into account the loss in the market value of the property. Depending on the case, specially selected protective measures will also be offered. At a PAP's request, however, a property subject to permanent restriction on its former use will be expropriated and the PAP will receive compensation according to the rules applicable to permanent loss of land;
- **Residential buildings** – Compensation will be awarded according to the same rules as for permanent loss of land. Moreover, relocated PAPs will receive an additional payment at an amount of PLN 10 000. Depending on the case, such people can opt to receive replacement residential accommodation from the investor. As for squatters, they are not entitled to compensation, but in certain cases the investor is obliged to grant them replacement accommodation. Such persons will also be offered a package of protective measures, including assistance in finding a place of residence, and if they are unemployed or addicted, they will be offered measures supporting their position in the labor market and they will receive a proposal of appropriate treatment;
- **Buildings and non-residential structures (stables, fences, technical infrastructure, etc.)** – As a rule, owners and users of such buildings and structures



are compensated as for permanent loss of land. As part of protective measures, the investor will propose the reconstruction of infrastructure systems, and where appropriate, of structures and buildings at the investor's expense. In addition, in the case of local governments which constructed or are constructing affected buildings or structures using funds from the budget of the European Union or other foreign sources, cash compensation will be increased by the amount of returnable funds from the co-financing, together with accrued interest;

- **Loss of plantings** will be compensated in cash to legal possessors of properties, taking into account the costs of establishment and maintenance of plantings as well as the value of lost benefits in the period from the date of expropriation until the completion of the full harvest;
- **Loss of tree stands** will be compensated in the same way as in the case of the loss of plantings. Depending on the case, compensation may also be made according to the estimated value of timber that could be obtained;
- **Impact on entrepreneurs and employment** will be compensated in cash by compensation for losses actually incurred by entrepreneurs and profits lost as a result of the implementation of the Project. Accounting and financial records or corporate income tax returns should be the basis for determining such values. Should employees lose their jobs, they will receive unemployment benefits. In case of the loss of earning opportunities, both employees and people performing work under civil law contracts will receive free-of-charge health insurance, assistance in finding a job and help in the form of vocational retraining aimed at finding new employment;
- **Loss or limitation in access to social infrastructure** (e.g. parks) will be compensated as much as possible by restoring such infrastructure in a new appropriately located site. If it is not possible or necessary to restore such infrastructure in a new site, PAPs will receive access to existing social infrastructure;
- **Household relocation costs** – PAPs will receive an amount of PLN 10 000 to cover household relocation costs. They will also be offered a special package of protective measures, if necessary including assistance in finding a transport company and in covering transport costs exceeding an amount of PLN 10 000;
- **Especially vulnerable groups** will receive, as part of compensation, a package of protective measures specially tailored to their needs (the schedule of implementation of such measures will be determined individually). As far as school children and young people are concerned, assistance will consist in finding a new location that will enable them to continue education received in the former 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, which provide 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 central and local government agencies as well as from non-governmental organizations relevant to their problems;
- **Temporary land use** which is specified in a construction permit will be compensated in cash through the investor's payment, on a monthly basis, of amounts corresponding to market prices of rental or lease of properties. Moreover, in the case where due to temporary land use a PAP incurs a loss, it will be compensated separately according to the aforementioned principles. After the completion of construction activities, all properties will be restored to their original state. Other temporary land use, not specified

in the construction permit but (if the contractor deems so) necessary for the contractor due to the adopted method of carrying out individual works, will be secured by the contractor at its cost based on a civil law contract agreed with the person making such land available and according to the terms and conditions provided for in such contract;

- **Damage to houses, buildings and structures due to construction works (e.g. vibration, accidents, etc.)** will be compensated depending on its nature in such a way so that it is possible to fully restore the substance of the affected structure or to purchase a new one. Depending on the situation, appropriate compensation payment rules will be applied to the a.m. impacts.



### 5.3 MATRIX OF COMPENSATION MEASURES

Impact / losses	PAP designation	Compensation
Permanent loss of land	Property owners, perpetual usufruct holders, independent possessors	<ul style="list-style-type: none"> <li>• “Land for land” compensation</li> <li>• If “land for land” compensation is not feasible or not wanted then cash compensation for replacement value of land</li> <li>• Coverage all transaction costs</li> </ul>
		<ul style="list-style-type: none"> <li>• Coverage of removal costs</li> <li>• Support in removal</li> </ul>
	Vulnerable groups	<ul style="list-style-type: none"> <li>• Relocation to a location not affecting the accessibility to the previous school.</li> <li>• Support in finding a location with similar accessibility to the school as in case of the expropriated household.</li> </ul>
		<ul style="list-style-type: none"> <li>• Relocation to a location with equal or better access to medical care as in case of expropriated household, or support in finding a place of residence with such access.</li> <li>• Relocation to a location without architectural barriers or support in finding a proper house.</li> </ul>
		<ul style="list-style-type: none"> <li>• Support in obtaining additional institutional support in order to improve quality of life.</li> </ul>
	Property users	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for the loss of the right to the property.</li> <li>• Assistance in securing use of a similar property.</li> </ul>
	Tenants, leaseholders	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for losses incurred due to the termination of the agreement;</li> <li>• Coverage of transaction costs.</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• No compensation for the loss of the property.</li> </ul>
	Holders of easement, mortgage, lien on properties	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for lost rights.</li> <li>• For land easement holders – assistance in finding a solution allowing them to use the property belonging to them (being the dominant tenement in relation to the expropriated property), for example in establishing another right of way necessary to access the property.</li> <li>• Coverage of transaction costs.</li> </ul>
Illegal easement holders	<ul style="list-style-type: none"> <li>• For illegal easement holders – assistance in finding a solution allowing them to use the property belonging to them (being the dominant tenement in relation to the expropriated property).</li> </ul>	

Permanent restriction on land use	Property owners, perpetual usufruct holders, independent possessors	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for losses related to the restriction on land use.</li> <li>• Coverage of transaction costs.</li> <li>• Proposing institutional support and advice regarding the possibility of another use of the property.</li> </ul>
	Property users	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for the loss of the right due to the restriction.</li> </ul>
	Illegal property possessors	<ul style="list-style-type: none"> <li>• Proposing institutional support and advice regarding the possibility of another use of the property.</li> </ul>
	Tenants, leaseholders	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for the loss of the right due to the restriction.</li> <li>• Coverage of transaction costs.</li> <li>• Proposing institutional support and advice regarding the possibility of another use of the property.</li> </ul>
	Easement holders	<ul style="list-style-type: none"> <li>• Assistance in finding a solution allowing them to use the property belonging to them (being the dominant tenement in relation to the expropriated property).</li> <li>• Cash compensation (or in another form agreed with the entitled person) for losses due to the restriction on the use of easement.</li> <li>• Coverage of transaction costs.</li> </ul>
	Illegal easement holders	<ul style="list-style-type: none"> <li>• For illegal easement holders – assistance in finding a solution allowing them to use the property belonging to them (being the dominant tenement in relation to the expropriated property).</li> </ul>
Residential buildings	Owners	<ul style="list-style-type: none"> <li>• “Land for land” compensation.</li> <li>• If “land for land” compensation is not feasible or not wanted, then cash compensation for the lost property.</li> <li>• Coverage of all transaction costs.</li> <li>• Coverage of resettlement costs.</li> <li>• Support in finding a new residence or providing a residential dwelling by the investor.</li> <li>• Institutional and social support for resettled people.</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>• Support in legalizing possession of the property in order to compensate as owners and legal possessors are compensated.</li> <li>• Coverage of resettlement costs.</li> <li>• Support in finding a new residence or providing a residential dwelling by the investor.</li> <li>• Institutional and social support for resettled people.</li> </ul>
	Leaseholders, tenants, users of properties	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for losses incurred due to the termination of the agreement.</li> <li>• Coverage of transaction costs.</li> <li>• Coverage of resettlement costs.</li> <li>• Support in finding a new residence or providing a residential dwelling by the investor.</li> <li>• Institutional and social support for resettled people.</li> </ul>

	<p>Illegal squatters</p>	<ul style="list-style-type: none"> <li>• Support in legalizing possession of the property in order to compensate as owners and legal possessors are compensated</li> <li>• Coverage of resettlement costs;</li> <li>• Support in finding a new residence or providing a residential dwelling by the investor;</li> <li>• Institutional and social support for resettled people.</li> </ul>
	<p>Holders of easement, mortgage, lien on properties</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) for the lost right.</li> <li>• Coverage of transaction costs.</li> <li>• For easement holders – residential dwellings: <ul style="list-style-type: none"> <li>○ Coverage of resettlement costs</li> <li>○ Support in finding a new residence or providing a residential dwelling by the investor</li> </ul> </li> <li>• Institutional and social support for resettled people.</li> </ul>
<p>Non-residential buildings and structures (stables, fences, technical infrastructure, etc.)</p>	<p>Owners, perpetual usufruct holders, independent possessors of buildings and structures</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) at replacement value for lost assets;</li> <li>• Relocation or reconstruction of lost assets.</li> </ul>
	<p>Users</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) at replacement value for lost assets.</li> <li>• Relocation or reconstruction of lost assets.</li> </ul>
	<p>Illegal possessors of buildings and structures</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) at replacement value for lost assets;</li> <li>• Relocation or reconstruction of lost assets.</li> </ul>
	<p>Leaseholders, tenants, users of buildings and structures</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person) at replacement value for lost assets;</li> <li>• Relocation or reconstruction of lost assets.</li> </ul>
<p>Loss of plants</p>	<p>Owners, perpetual usufruct holders, independent possessors of properties</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person), including costs of establishment and maintenance of plantings and for lost crops.</li> <li>• Allowing crops to be harvested.</li> </ul>
	<p>Users</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person), including costs of establishment and maintenance of plantings and for lost crops;</li> <li>• Allowing crops to be harvested.</li> </ul>
	<p>Leaseholders, tenants</p>	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person), including costs of establishment and maintenance of plantings and for lost crops;</li> <li>• Allowing crops to be harvested.</li> </ul>
	<p>Illegal possessors</p>	<ul style="list-style-type: none"> <li>• Allowing crops to be harvested.</li> </ul>

Loss of trees	Owners, perpetual usufruct holders, independent possessors of properties	<ul style="list-style-type: none"> <li>Cash compensation (or in another form agreed with the entitled person), if necessary including costs of establishment and maintenance of trees and for lost crops.</li> </ul>
	Users	<ul style="list-style-type: none"> <li>Cash compensation (or in another form agreed with the entitled person), if necessary including costs of establishment and maintenance of trees and for lost crops.</li> </ul>
	Leaseholders, tenants	<ul style="list-style-type: none"> <li>Cash compensation (or in another form agreed with the entitled person), if necessary including costs of establishment and maintenance of trees and for lost crops</li> </ul>
	Illegal possessors	<ul style="list-style-type: none"> <li>Allowing crops to be harvested.</li> </ul>
Impact on entrepreneurs and employment due to land acquisition	Sole traders	<ul style="list-style-type: none"> <li>Cash compensation (or in another form agreed with the entitled person) for lost income during the period of land use;</li> <li>Institutional support for people closing their business.</li> <li>“Land for land” compensation under conditions allowing for continuing agricultural / horticultural activities or cash compensation;</li> <li>Cash compensation (or in another form agreed with the entitled person) allowing agricultural / horticultural activities to be undertaken in a new property.</li> </ul>
	Non - governmental organizations	<ul style="list-style-type: none"> <li>“Land for land” compensation or cash compensation (or in another form agreed with the entitled person);</li> <li>Cash compensation (or in another form agreed with the entitled person) allowing business activities to be undertaken in a new property.</li> </ul>
	Micro- enterprise (employing up to 10 employees)	<ul style="list-style-type: none"> <li>“Land for land” compensation under conditions allowing activities to be continued.</li> <li>Cash compensation (or in another form agreed with the entitled person) activities to be undertaken in a new property.</li> <li>Cash compensation (or in another form agreed with the entitled person).</li> <li>Institutional support for people closing their business.</li> <li>“Land for land” compensation under conditions allowing agricultural / horticultural activities to be continued or cash compensation (or in another form agreed with the entitled person);</li> <li>Cash compensation (or in another form agreed with the entitled person) allowing agricultural / horticultural activities to be undertaken in a new property.</li> </ul>
	Small enterprises (employing from 10 to 50 employees)	<ul style="list-style-type: none"> <li>Cash compensation (or in another form agreed with the entitled person).</li> </ul>
	People working under civil-law contracts	<ul style="list-style-type: none"> <li>Awarding entrepreneurs with compensation allowing the highest possible number of jobs to be maintained.</li> <li>Institutional and social support for unemployed people.</li> </ul>
	People working under employment contracts	<ul style="list-style-type: none"> <li>Awarding entrepreneurs with compensation allowing the highest possible number of jobs to be maintained.</li> <li>Institutional and social support for unemployed people.</li> </ul>

Loss of or limited access to social facilities	All PAPs living in the project affected area	<ul style="list-style-type: none"> <li>• Reconstruction of social infrastructure in another area;</li> <li>• If reconstruction of social infrastructure in another area is not feasible or is unjustified, provision of access to existing social infrastructure.</li> <li>• Temporary provision of recreational sites.</li> </ul>
Municipal assets	Municipality	<ul style="list-style-type: none"> <li>• Reconstruction or replacement of destroyed structures in consultation with municipalities.</li> </ul>
Temporary land use	Owners, perpetual usufruct holders, independent possessors	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person);</li> <li>• Restoration of the property to its original condition.</li> </ul>
	Illegal possessors of properties	<ul style="list-style-type: none"> <li>• Restoration of the property to its original condition.</li> </ul>
	Leaseholders, users of properties	<ul style="list-style-type: none"> <li>• Cash compensation (or in another form agreed with the entitled person);</li> <li>• Restoration of the property to its original condition.</li> </ul>

## 6 PUBLIC CONSULTATION ON THE RESETTLEMENT POLICY FRAMEWORK

The public consultation on the RPF took place over the period February 23 – March 11, 2015. Information on the commencement of the public consultation was publicly advertised several days in advance on the Beneficiaries' websites, on their notice boards, and in the local press. The advertisement included detailed information about the duration of the public consultation, the possibility of familiarizing oneself with the document which was the subject of consultation, and the possibility of submitting suggestions and comments, indicating detailed contact data (e-mail address, the address of the place where the draft document could be inspected, and the office hours) as well as information about public debates planned to be held as part of the public consultation on the document.

It was possible to submit comments and suggestions concerning the RPF during the period February 23 – March 11, 2015, inclusive. Moreover, the general public could also submit comments and suggestions during the public debates.

The public debates were organized after the public disclosure period on the following dates:

- March 9, 2015 in Szczecin;
- March 9, 2015 in Kraków;
- March 10, 2015 in Rzeszów;
- March 10, 2015 in Zielona Góra;
- March 11, 2015 in Wrocław.

A total of 177 people took part in the public consultations, including representatives of administration authorities, NGOs, and members of the local communities where the Project activities would be carried out.

The main issues raised by the participants of the public consultation concerned the need to provide appropriate compensation to project affected people and also the need to include in the Project interventions that would provide flood protection for the San, Wisłoka and Dunajec sub-basins. As a result of the submitted comments, Subcomponent 3D – Passive and Active Protection of the San, Wisłoka and Dunajec Sub-basins, was included in Component 3, Upper Vistula.

## 7 PREPARATION OF RESETTLEMENT ACTION PLANS (RAPs)

### 7.1 INSTITUTIONAL STRUCTURE AND RAP IMPLEMENTATION TEAM

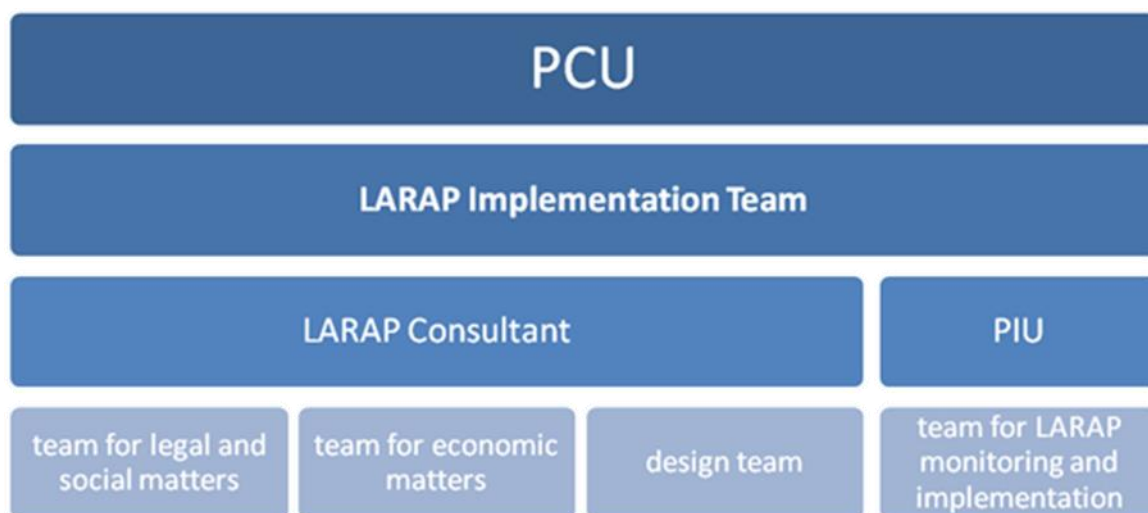
In order to use the knowledge and experience obtained during the implementation of the Odra River Basin Flood Protection Project, all work on RAPs should be consulted with the Project Coordination Unit (PCU), which has large experience in implementing flood protection projects in Poland with the using World Bank funds as well as in-depth knowledge of the World Bank's procedures.

The PCU, which operates within the structure of the National Water Management Authority (KZGW) at the State Water Holding Polish Waters, will manage the implementation of project activities carried out by the Project Implementation Units (PIUs) and the Implementing Agencies (IAs). It will also provide to the PIUs technical assistance, support and conduct some preparation activities (including with regard to the preparation of new activities associated with the country-level flood protection strategy resulting from the implementation of the Project) as well as supervise works carried out under the Project and evaluate their progress. But it is the PIUs (established at the respective RZGWs by the Polish Waters President for the purpose of implementation of OVFMP activities) which will be responsible for the performance of tasks specified in a decision/order establishing the respective PIU, in particular for the preparation of the entire investment process, including a RAP and formal and legal documents associated with the implementation of investments (and obtaining necessary administrative approvals and permits), preparation and tendering for works and services, entering into contracts for works and services, monitoring progress in their implementation, financial management and accounting, preparation of necessary reports for the purpose of monitoring the implementation, and coordination of work of all parties involved in the preparation of a specific investment for implementation and its final implementation, financial settlement, and commissioning. The PCU's task will be to provide technical support and coordinate the above-mentioned activities carried out by the PIUs.

In order to effectively prepare and implement RAPs, dedicated teams will be set up within the PIU to handle RAP review, and then to implement and carry out the RAP. In the process of RAP development and implementation, the PIU will be supported by a Consultant selected according to the relevant procedure of the World Bank.

The Consultant will support the PIU at all stages of RAP-related work – from its preparation to the completion of its implementation and final settlement. In order to effectively support the PIU, it will be necessary to establish a design team within the Consultant's structure along with a team for legal and social matters and a team handling economic matters.

A schematic diagram of the institutional structure for RAP implementation is presented in the graph below. It takes into account the PCU's role as an entity coordinating the preparation of RAP documents and their implementation as well as their submission to the World Bank.



## 7.2 PROCESS OF RAP PREPARATION AND APPROVAL

RAP PREPARATION			
Steps	Activity	Responsibility	
1	Preliminary assessment of social impacts	RAP Consultant - team for legal and social matters	PIU – team for RAP verification
2	Determination of the final scope of expropriation and preparation of a construction design	RAP Consultant - design team	
3	Preparation of a socio-economic survey	RAP Consultant - team for legal and social matters, team for economic matters	
4	Determination of the coordination framework for RAP implementation with relevant government administration bodies		PIU – team for RAP verification
5	Collection of written and graphic extracts from the register of land and buildings and from local land use plans	RAP Consultant - team for legal and social matters	PIU – team for RAP verification
6	Assessment of the investment's social impacts	RAP Consultant - team for legal and social matters	
7	Estimation of losses and damage as well as their replacement value in compliance with relevant regulations	RAP Consultant - team for economic matters	PIU – team for RAP verification



8	Verification and update of collected materials, impact analyses and economic analyses (Detailed Measurement Survey)	RAP Consultant - team for legal and social matters, team for economic matters	PIU – team for RAP verification
9	Preparation of a draft RAP and obtaining the WB’s OK to public consultation (if required <sup>4</sup> )	RAP Consultant - team for legal and social matters, team for economic matters	PIU – team for RAP verification, PCU, WB
10	Public consultation on RAP	RAP Consultant - team for legal and social matters, team for economic matters	PIU – team for RAP verification
11	Making changes in the construction design as a result of the public consultation	RAP Consultant - design team	PIU – team for RAP verification
12	Review and update of collected materials, impact analyses and economic analyses in order to incorporate comments and suggestions concerning the draft RAP	RAP Consultant - team for legal and social matters, team for economic matters	PIU – team for RAP verification
13	Making changes in the RAP in order to incorporate comments and suggestions concerning the draft RAP	RAP Consultant - team for legal and social matters, team for economic matters	PIU – team for RAP verification
14	Submission of RAP to the World Bank	PIU – team for RAP verification; coordination by PCU	PCU
15	World Bank’s no-objection	WB	
16	Public disclosure of RAP (the RAP will also be disclosed on the WB’s website)		PIU – team for RAP verification

<sup>4</sup> During the WB and CEB mission that was held on December 7-10, 2020 the WB recommended that an “OK” to publicly disclose and consult RAPs which had been previously given by the WB was no longer needed for RAPs which do not entail resettlement of households or economic displacement, do not impact vulnerable groups, and do not have active grievances relating to a particular sub-project. However, a No Objection by the World Bank is required for all RAPs prior to final disclosure as described in Table 7.2’s Step 15 (Aide Memoire, paragraph 68).

<b>RAP IMPLEMENTATION</b>			
<b>Steps</b>	<b>Activity</b>	<b>Responsibility</b>	
1	Determination of a detailed RAP implementation schedule	RAP Consultant - team for legal and social matters	PIU - team for RAP monitoring and implementation
2	Filing construction permit applications	RAP Consultant – design team	PIU - team for RAP monitoring and implementation
3	Informing PAPs about the possibility of compensation and purchase of properties which are not planned to be acquired for the investment	RAP Consultant – team for legal and social matters	PIU - team for RAP monitoring and implementation
4	Consideration of requests to purchase properties not included in the construction permit and, accordingly, update of the construction permit and update of the RAP – Art. 23 para. 2 of the Special Flood Act	RAP Consultant - team for legal and social matters, team for economic matters, design team	PIU - team for RAP monitoring and implementation
5	PIU's acquisition of properties that will be transferred as replacement properties - Art. 23 para. 1 of the Special Flood Act	RAP Consultant - team for legal and social matters	PIU - team for RAP monitoring and implementation
6	Obtaining a construction permit	RAP Consultant – design team	PIU - team for RAP monitoring and implementation
7	Informing PAPs about obtaining the construction permit, its effects and the investor's further planned actions	RAP Consultant – team for legal and social matters	PIU - team for RAP monitoring and implementation
8	Valuation of properties by independent and objective property appraisers, in compliance with applicable law, and valuation verification	RAP Consultant - team for legal and social matters, team for economic matters	PIU - team for RAP monitoring and implementation
9	Delivery of property valuation reports prepared by property appraisers to expropriated persons and conducting negotiations	RAP Consultant - team for legal and social matters, team for economic matters	PIU - team for RAP monitoring and implementation
10	Should negotiations fail – obtaining a compensation decision from the Voivode		PIU - team for RAP monitoring and implementation

11	Payment of compensation or handover of replacement properties, commencement of other compensation and protective measures provided for in RAP		PIU - team for RAP monitoring and implementation
12	Giving possession of expropriated properties to the contractor and commencement of civil works	PIU Manager	PIU - team for RAP monitoring and implementation
13	Evaluation of RAP implementation	RAP Consultant - team for legal and social matters, team for economic matters	PIU - team for RAP monitoring and implementation
14	Evaluation of RAP	Independent auditor	

CYCLICAL TASKS			
Steps	Action	Responsibility	
1	Continuous internal monitoring of RAP implementation	RAP Consultant - team for legal and social matters	PIU - team for RAP monitoring and implementation, PCU
2	Reporting to the World Bank	RAP Consultant - team for legal and social matters	PIU - team for RAP monitoring and implementation, PCU
3	Continuous coordination with central and local government administration bodies	PIU - team for RAP monitoring and implementation	PCU
4	Continuous communication with PAPs	RAP Consultant - team for legal and social matters	PIU - team for RAP monitoring and implementation

POST-IMPLEMENTATION TASKS			
Steps	Action	Responsibility	
1	Evaluation of RAP implementation	Independent external auditor	

### 7.3 CRITERIA AND PROCESS OF CONDUCTING AN INVENTORY OF PROPERTIES

An inventory will be made of properties located in the project implementation area and of properties whose owners have submitted applications to purchase them due to the loss of the possibility to use their properties as previously in connection with the implementation of the Project. Properties intended for permanent acquisition and for temporary land use will be inventoried as well as those that will be subject to permanent restrictions on land use.

Before starting an inventory of properties, data on properties will be obtained from Land Registry title deeds and the property cadaster (the register of land and buildings). A Land Registry title deed is maintained separately for each property, while the basis for designation of a property is the data in the cadaster. The data from the register of land and buildings include the following information:

1. land – its location, boundaries, area, types of land use and soil classes, designations in the Land Registry title deeds or collections of documents, if they are maintained for the property comprising the land in question;
2. buildings – their location, intended use, use functions, and general technical data;
3. premises – their location, use functions, and floor space.

The register of land and buildings also shows the owner (including the owner's place of residence). Information about entering properties in the register of monuments is also included. The property value is not shown. Having obtained the data from Land Registry title deeds and from the register of land and buildings as well as from the construction permit, a survey of the actual condition of a property will be conducted. The property's condition will be assessed based on its development, legal status, technical and functional condition, and technical infrastructure. The former zoning of the property will be determined on the basis of the provisions of the local land use plan, or, if none exists, on the basis of the study of conditions and directions of spatial development for the municipality, or on the basis of the zoning permit, if issued. If there is no study or permit, the actual use the property will be taken into account. Moreover, the condition of the property's surroundings will be taken into consideration, including the size, character and degree of urbanization of the town where the property is located. Such a survey will be required to determine the property's value by a property appraiser.

On the basis of the appraiser's opinion the amount of compensation will be determined, which should correspond to the property's market value, i.e. the value that can be obtained in the market. If the data from the local and regional market are insufficient to determine the property's market value, then this value is determined using the cost approach, i.e. based on the costs of its replacement less the value of wear and tear of the property.

### 7.4 CRITERIA AND PROCESS OF CONDUCTING A CENSUS AND SOCIO-ECONOMIC SURVEYS FOR THE PURPOSE OF THE RAP

The Resettlement Action Plan (RAP) should be based on up-to-date information about the anticipated scale and type of the Project's impacts on the community affected by the implementation of the Project, in particular the population subject to expropriation. Therefore, to accurately predict such impacts as well as to determine adequate and effective compensation, protective and – where applicable – preventive measures (as regards the impact on the affected community), it will be necessary to carry out socio-economic surveys. These surveys should allow characterization of the standard features of households to be resettled. In addition, such surveys are to provide the following information:

- exact magnitude of resettlement;
- full information about the resource base of the population affected by the Project's impacts, including their sources of income derived from agricultural and non-agricultural activity;
- determination which groups within the population will be affected by complete or partial loss of assets;
- indication which public and social infrastructure will be affected by the effects of the implementation of the Project;
- determination of formal and informal organizations (such as local organizations, religious associations, etc.) that may be involved in designing and implementation of Resettlement Action Plans;
- attitude of PAPs to proposed resettlement options.

Therefore, the socio-economic survey will be divided into two parts. The first part is designed to identify in detail the economic and social situation of project affected persons (PAPs). It will cover PAPs, i.e. people residing or owning land, or enterprises located within the investment area or in its vicinity, who will voluntarily participate in questionnaire surveys. The questionnaire comprising parts I, II, and III will be carried out by pollsters, during direct interviews with household members.

The second part of the survey will cover local communities, from which households will be randomly chosen; parts II and III of the questionnaire will be sent to such households, together with a reply paid envelope. Given the low reply rate of mail questionnaires, the number of the questionnaires in question will be three times higher than the size of the representative research sample.

## 7.5 PUBLIC CONSULTATIONS

It is obligatory to conduct a public consultation for the purpose of preparing and implementing a RAP. It is the investor's obligation to conduct a public consultation in the case of investments resulting in physical or economic resettlement. An effective RAP provides for conducting regular consultations with a widely defined group of stakeholders. Consultations held at the earliest possible stage will help determine the expectations related to the Project's implementation and benefits arising from it. Consultations also offer the opportunity to negotiate the content of compensation packages, eligibility criteria for awarding compensation, and the extent of assistance during resettlements, as well as to determine time for carrying out the resettlement process.

Due to this, during the period preceding public disclosure of a RAP, as part of involvement of the general public in the process of RAP preparation, investors will conduct consultation meetings during which a specific local community will be informed about details such as:

- requirements arising from the World Bank's policies;
- detailed information about the planned scope of a specific investment;
- the planned sequence of the Investor's activities;
- the mechanism for submitting complaints and comments;
- rules of compensation under the RAP.

In the course of work on RAP preparation (steps 1-8 in table 7.2 - RAP preparation section), the Investors will also conduct individual consultation meetings with residents. During such

individual consultations, residents will be presented with the social safeguards arising from the policy OP 4.12., persons responsible for the implementation of the Project as well as for the preparation and implementation of the RAP, the planned sequence of PIU's activities, and the compensation rules provided for in the RAP. Issues regarding, among others, scheduling of works and the possibility of leasing land within the dry polders' area and obtaining replacement land will be discussed. The Investor will remain in regular contact with PAPs in order to achieve the assumed objectives of public participation in the RAP preparation process, i.e. an appropriate level of information provision and feedback that must be included in the process of proper RAP preparation.

Information materials will also be prepared and they will describe, in a way understandable to the local community, the purpose and extent of the investment, the process of land acquisition and compensation payment, and the process of acquisition of the so-called remaining land (in accordance with Art. 23 para. 2 of the Special Flood Law).

Following the completion of work on the draft RAP and after obtaining the WB's OK (tentative approval), open meetings and a public discussion on the draft RAP will be held for all interested parties.

After public disclosure of the draft RAP and the announcement of the date of a public debate on it and also about the possibility of submitting comments and suggestions regarding the RAP document, the general public will be informed through the following, among others:

- putting up information on the public consultation on the notice board at the Investor's/RZGW's office;
- putting up information on the public consultation on the website and notice board of the Municipality within whose area the investment will be carried out;
- putting up information on the public consultation on the OVFMP website;
- advertisements in the local press;
- putting up information on the public consultation on municipal notice boards of the municipalities within whose area the investment will be carried out;
- individual invitations sent to persons whose properties will be subject to physical or economic expropriation;
- social media /Facebook, Twitter/.

The public consultation will last at least 21 days. During this period of time, each interested person will have an opportunity to familiarize themselves with the draft RAP and submit their findings/observations/comments. It will be possible to submit comments and suggestions on the draft RAP in writing either directly or by post to the address of the Regional Water Management Authority (RZGW) in Wrocław or its relevant Inspectorate, or by electronic mail to the addresses given during the consultation. During a public debate, the general public will have an opportunity to express their opinions on the draft RAP either orally or in writing. After conducting the public debate, comments submitted by the general public during the public consultation will be incorporated into the RAP, where justified and possible.

A report on the public debate with anonymized personal data will be attached to the RAP.

The RAP revised based on the results of the public consultation on the RAP, including a chapter that sums up the main topics addressed during the consultation and answers, will be sent through the PCU to the World Bank for its no-objection to public disclosure of this document in Poland and on the World Bank's website in Polish and English language versions. Having obtained the World Bank's no-objection to the final RAP document, it will be made available to interested parties until the completion of the implementation of the Project. Making available and public disclosure of the RAP, particularly the results of socio-economic surveys,

must be done in compliance with the provisions of the General Data Protection Regulation (GDPR).

### 7.5.1 Stakeholders

Within the meaning of the RAP, the term “stakeholder”<sup>5</sup> is understood as an entity or group of entities being within the project impact that may have a significant, both positive and negative, effect on the shape or the implementation of the project.

Undertaking any of the project activities will require identification of stakeholders, determination of their attitudes to the planned activities and procedures available to them as well as an attempt to predict their behavior. To analyze stakeholders and their significance for the project, it is proposed that a stakeholder matrix be used.

The most important groups of stakeholders that should be considered when developing a resettlement action plan include the following:

- Decision-making, opinion-giving, and approving public authorities, with particular emphasis on local authorities;
- Local community – people directly affected by the impact of the implementation of the project and also, for example:
  - neighbors;
  - community leaders,
  - farmers and entrepreneurs,
  - church representatives,
  - hobby associations, sports associations, youth associations, etc.
- Non-governmental organizations – environmental, social, and other, operating internationally, nationally and locally.

### 7.5.2 Informing the public

The flow of information between the investor and the stakeholders is essential to ensure high efficiency of public consultation and community involvement in the project, and thus it is essential for achieving the objectives of the resettlement action plan. For this reason, the investor should take action to identify stakeholders (see above) and then carry out the information process with the following steps:

- Informing the local authorities, community leaders, and local community organizations about the planned project as early as possible, with a request to further disseminate this information;
- Presentation of all project managers and people who will be in constant contact with the local community being within the expected impact of the investment as well as presentation of mitigation measures;
- Development of an illustrated newsletter with information about the resettlement, containing details on eligibility criteria, rates of compensation, and other entitlements as well as presenting the time frame for implementation of the plan and the relevant procedures;
- Development and regular publication of information concerning resettlement.

Informing the local community within the project’s impact about their rights and obligations

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<sup>5</sup> The concept of the stakeholder should be distinguished from the narrower concept of the party, which under Polish law is an entity that has a legal interest in securing a favorable outcome of specific proceedings



is crucial for successful implementation of the plan. Transmitted information must be accessible and understandable for intended recipients. If necessary, it should be translated into local dialects and languages spoken in the area and disseminated via available media, both for literate and illiterate recipients (radio, TV, announcements, newspapers, leaflets, Internet, social media). One should also take into account sensitive groups that do not have access to public media and information exchange.

### 7.5.3 Public participation in the preparation and implementation of the Project

It is the investor's obligation to initiate a series of consultations with stakeholders and continue these efforts throughout the entire time of development and implementation of the Resettlement Action Plan. The purpose of the consultation is to provide stakeholders with information about the Project and its effects as well as with an opportunity to express their concerns related to the Project and propose alternative solutions which are beneficial from their point of view.

Consultations should involve persons representing the investor, project managers, competent authorities, representatives of NGOs, and members of both resettled and hosting communities. Talks should concentrate on the Project's effects and on measures to mitigate them. The focus should be on the community's concerns related to the implementation of the Project, with particular emphasis placed on vulnerable groups, and such concerns should be addressed in the RAP. The aim of consultations should be to provide opportunities for participation of all PAPs, particularly with regard to the following areas:

- Alternative paths to implement the Project;
- Investment impact assessment;
- Resettlement strategy;
- Compensation rates and eligibility criteria for seeking compensation;
- Selection of the target area and time of resettlement;
- Development of opportunities and initiatives;
- Development of compensation procedures and complaint processing procedures; and
- Development of mechanisms for monitoring and evaluating the impact of RAP implementation, including the implementation of corrective measures.

Regular consultations with stakeholders will allow monitoring the effectiveness of implementation of the compensation package under the RAP as well as of the efforts made to restore sources of livelihood, etc. Depending on the investment's size and scope, the investor may appoint the so-called community liaison officer and allocate to him/her a budget to manage the public consultation process. An alternative solution is to engage a recognized NGO to perform this function. In each case, the investor must make sure that the community within the project's impact area is informed about the Project and the possibility to obtain compensation due to its implementation. Moreover, project managers should document the flow of information and public consultation activities. The documentation should allow one to identify consultees, the subject matter of the talks, and their outcome. Thus, it is essential that a report on conducted consultations should contain the following data and materials, among others:

- A list of institutions and environmental and social NGOs that have been notified of the consultation and invited to meetings.
- The content of advertisements informing about the consultation which were published on the Polish Waters websites, notice boards, and websites of the respective City,

County, Municipality Offices, etc.

- The content of posters (sample posters) that were distributed in specific localities on advertising columns and notice boards.
- The content of press information /messages/ that were sent to the media.
- Photos from meetings.
- Attendance lists.
- Materials /maps, photos, presentations/ that were presented at meetings.
- Information /leaflets/ that were distributed during meetings with residents.
- A media report (an excerpt from monitoring of traditional media as well as the Internet and social media/ - press information that was published in the media on the public consultation conducted.

#### 7.5.4 Negotiations

Negotiations with PAPs will be conducted individually with a given household, depending on the type of effects for the household. All interested people have a right to participate in the negotiations on an equal basis. Areas of negotiation will depend on the type of the property affected, which will allow the needs of each household to be satisfied relative to impacts for the given household, i.e.:

- Loss of land;
- Loss of income (e.g. farmers, entrepreneurs);
- Loss of structures or buildings located within the property;
- Loss of infrastructure (e.g. water, electricity, roads, paths);
- Other elements (e.g. support of various kinds, establishment of ownership rights to the property).

Taking into account the type of impacts arising from the respective investment, negotiations will always relate to the form of compensation and the time of acquiring the property. The other areas will be negotiated depending on the case.

During the negotiations, the Investor will provide to PAPs with comprehensive clarifications and information on an ongoing basis in order to assure that arrangements and agreements made are understandable for all affected people. The negotiation process will be non-discriminatory and ensure equal treatment.

Reservations made by the parties during the stage of negotiations will be recorded in negotiation memos and protocols.

## 7.6 GRIEVANCE REDRESS MECHANISMS

Objections and comments to the Resettlement Action Plan and any reservations with respect to the implementation of resettlement in accordance with Polish law are classified as complaints and requests. They are considered using a formal procedure provided for in the Code of Administrative Procedure (CAP). The CAP has been in force in Poland, with some modifications, since 1960. Therefore, citizens and businesses expect from administration bodies and other agencies obliged to apply the provisions of the CAP that they will examine their comments and requests and provide a response in accordance with the CAP provisions. In order to supplement the regulatory framework, it is planned that within the respective PIU a person will be appointed in the RAP implementation and monitoring team who will be responsible for handling public consultations, resolving disputes, and communicating information.

Everyone has the right to file a complaint or request. Filing complaints or requests is not subject to fees. Furthermore, in accordance with the regulations, a person filing a complaint or request may not be exposed to any damage or allegation on account of such submission. Complaints and requests may be filed in writing, in an electronic form, or orally. They may be filed at the investor's registered office or at the office of the administration authority conducting the respective case, or sent by mail. If a complaint or request is filed with a wrong authority, such an authority is obliged to send the complaint or request to the competent agency for its consideration.

Depending on the type of an investment and the expected extent of expropriation, a consultation point will also be established at the place of implementation of the investment. There, PAPs can obtain information about the Project and its implementation. It will also be possible to submit complaints and requests there, too.

Complaints and requests will be archived in a separate register, with the dates of their submission, dates of providing answers, and the method of resolving a given case.

If processing of a complaint or request requires a prior review and clarification of the matter, other materials will be collected, research analyses and studies will be performed, etc.

A complaint or request will be dealt with immediately, which entails the obligation to send to the submitting party, without undue delay, an official notice on how the complaint or request has been dealt with. Such a notice should include the designation of the agency that sent it, an indication of how the complaint was handled, and a signature with the name and official position of the person authorized to deal with the complaint or request. A notice of refusal to settle a complaint or request must exhaustively explain the applicable rules and the facts based which refusal was given.

In particularly complex cases as well as in cases where the examination of the complaint or request requires changing the RAP, the time limit for answering the complaint or request will be extended to 30 days. If the time limit is too short, the party will be notified of the reason why he/she did not receiving a reply to his/her complaint or request within the prescribed time limit, also indicating the date when such an answer will be given.

Comments and requests submitted by the parties during the RAP public consultation will be processed in accordance with the procedure described in section 7.5.

Objections submitted by the parties at the stage of negotiations on the amount of compensation conducted after a construction permit has been issued will be archived in minutes of negotiation meetings. Minutes and other documents sent to one another by the parties during the negotiations, if no agreement on compensation is reached, will be submitted to the competent Voivode. Apart from the property appraisal, these documents will be supporting materials for the Voivode in the process of issuing a compensation decision.

Should the parties be dissatisfied with the decision issued by the Voivode, they will have the right to appeal to the minister competent for construction. All statements, motions and evidence submitted in the proceedings before the minister competent for construction will need to be taken into account when issuing the decision on compensation.

If the parties are dissatisfied with the minister's decision, they will have the right to appeal to the Regional Administrative Court (RAC) in Warsaw. The RAC will examine whether the Voivode and the minister conducted the proceedings in an appropriate and fair manner, also with respect to taking into consideration the comments, motions and evidence submitted by the parties to the proceedings. In case the ruling issued by the RAC in Warsaw is unsatisfactory to the party, he/she will be entitled to file a cassation appeal to the Supreme Administrative Court (SAC). The SAC will examine not only the correctness and legality of the proceedings conducted by the Voivode and the minister, but also the judgement issued by the RAC.

## 8 MONITORING AND EVALUATION OF RAP IMPLEMENTATION

### 8.1 MONITORING OF RAP

The primary objective of a RAP is to ensure that the social and financial situation of PAPs is improved or at least restored to pre-project levels. A properly implemented RAP should ensure that this objective will be achieved. Therefore, it is necessary to design a RAP monitoring system, taking into account specific social impacts of the planned investment and the effectiveness of compensatory and protective measures applied. The RAP requires cooperation between the Consultant and the PIU. Hence, PIUs should also be closely involved in the RAP monitoring process.

Monitoring is a continuous process of data collection, which should then be analyzed in order to provide a basis for assessing the level of RAP implementation. The purpose of RAP monitoring is not only to acquire knowledge with regard to its actual implementation. Up-to-date knowledge on RAP implementation allows relevant information to be provided to PAPs, which contributes to reducing their uncertainty and allows them to plan their life activities. It also allows for early identification of risks and implementation of actions that allow such risks to be eliminated or at least mitigated.

As part of monitoring, the progress in acquiring properties for the purpose of implementation of the Project and in payment of compensation will be assessed.

Monitoring will be conducted by the PIU with the Consultant's support on the basis of indicators regarding the number of acquired properties and the amount and type of compensation provided.

The following parameters will be closely monitored:

- number of properties for expropriation and expropriated;
- number of people requiring resettlement and resettled;
- number of properties to be temporarily used (planned and actual);
- amount of all resettlement-related expenditures (planned and actual);
- compensation paid for the loss of the legal title to a property;
- compensation paid for the loss of a source of income;
- replacement properties acquired and allocated;
- extent and status of implementation of protective measures;
- number of complaints.

At the level of the Project's impacts on individual families that additionally lose agriculturally used land, the following indicators will be monitored and evaluated ex-post in order to show that the key objectives of restoration/improvement of living conditions have been achieved:

- value of assets lost vs compensation received;
- pre- and post-displacement income;
- cropped area before and after the investment;
- agricultural production before and after the investment;
- access to health and education services as well as to public transportation.

The parameters will be monitored on the basis of information gathered by the Consultant, information held by the PIU, and based on interviews with PAPs, submitted complaints and requests, the activities of a consultation point, and consulting meetings with members of the community concerned.

Monitoring results will be presented in monthly and quarterly reports. A quarterly report will be

submitted to the PCU, which will be responsible for coordinating and submitting reports to the World Bank.

Sample monitoring tables, after they have been agreed with the World Bank, will be shown in the Project Operations Manual, but they can be modified at the World Bank's recommendation during the implementation of the Project. During the virtual mission of the WB and the CEB that was held on September 6-10, 2021, the WB recommended consolidation and simplification of the previously used monitoring tables for social safeguards (Aide Memoire, paragraph 62A). As a result of the implementation of these recommendations, the PCU, in cooperation with the WB, prepared a new consolidated tracking table for RAP-related social issues. Following its approval by the WB, this table is an obligatory element of continuous monitoring of RAP implementation starting from reports for the 4th quarter of 2021.

## **8.2 RAP IMPLEMENTATION EVALUATION (EX-POST)**

Ex-post evaluation will be conducted six months after the RAP was fully implemented and its objectives will be evaluated and documented in order to demonstrate that all activities provided for in the RAP have been implemented and that each affected unit (e.g. a family, an individual, a business) has received compensation and that their living conditions have improved, or at least have been restored. The results of the evaluation will be included in the final RAP report, the structure (outline) of which, the methodology for its preparation together with sample questions for ex post qualitative research surveys are included in Annex 3.

## **9 RAP IMPLEMENTATION BUDGET AND FINANCING**

All costs associated with RAP preparation and implementation, including compensation costs as well as RAP implementation management and monitoring costs, will be an integral part of the Project implementation costs.

## 10 TEMPLATES FOR FURTHER ACTIVITIES

### 10.1 TEMPLATE NO. 1. OUTLINE OF “THE RESETTLEMENT ACTION PLAN (RAP)”

#### Introduction

A short description of the proposed Project (type of infrastructure that is to be built under the Project and which requires acquisition of land, recovery of land, or acquisition of rights to have possession of the land) and agencies responsible for its implementation as well as a short statement that RAPs and the RPF are consistent with Polish laws and the World Bank’s operational policy OP 4.12 and that pursuant to the Loan Agreement, if there are differences between Polish laws and OP 4.12, the provisions that are more favorable to the affected community or the “higher standard” should apply, ensuring that OP/BP 4.12 is fully complied with.

The map of the area affected by the Project and the estimation of the number of necessary properties (with the percentage division into private properties and public properties), the area in hectares, and the number of people that must be physically displaced and/or in whose case the implementation of the Project would have an impact on their economic situation.

#### Objectives the RAP

Basic objectives and principles of the RAP (compliant with the Resettlement Policy Framework and WB OP 4.12).

#### Mitigation of impacts

Description of potential impacts of the Project.

Description of alternative options of investments in terms of their impact on the affected community.

Description of any activities taken to mitigate the impact associated with land acquisition / resettlement for the purpose of implementation of the investment.

#### Socio-economic survey

Presentation of results of sociological and socio-economic surveys and of an inventory of properties.

Identification of all categories of impacts and affected people.

Summary of consultations carried out during the surveys with members of the community in question.

Description of the need to update the sociological and socio-economic surveys and the inventory of properties.

Description of issues related to vulnerable groups.

Description of issues associated with obtaining information about properties (absence of Land Registry title deeds, lack of cadastral data) or with conducting sociological and socio-economic surveys (lack of consent to questionnaires, absence of property owners, disputes regarding the ownership of properties, etc.).



### **Applicable provisions of law and valuation methods**

Short description of applicable provisions of law and key activities to be undertaken in order to eliminate the differences between Polish legislation and the WB's OP 4.12.

Description of the valuation method adopted with respect to building structures, land, trees and other assets affected by the implementation of the Project (i.e. how their replacement value will be achieved).

Specific procedures should be determined which will be applicable in particular cases, such as the following: owners who are absent, expropriation of land subject to a legal dispute, actions to be taken to carry out expropriation in the case where negotiations with the owner have failed (e.g. escrow account).

### **Eligibility criteria and catalogue of entitled persons**

Eligibility criteria should be described (who is entitled to receive compensation) and a catalogue of entitled persons should be presented.

This chapter should include a detailed matrix of compensation measures (the entitled person, type of compensation/solution to be used in accordance with the eligibility criteria as well as the type and magnitude of the impact).

### **Resettlement sites**

Statement whether the Project requires resettlement of the affected community (physical displacement).

Description of the engagement of the local community and individual households in the process of selection of the resettlement site, evaluation of strengths and weaknesses of each site considered, description of the rules and criteria for the selection of the resettlement site.

Description of the engagement of the affected community in the development of the resettlement strategy and a description of this strategy.

Description of feasibility studies evaluating the adequacy of selected locations, including issues concerning natural resources (e.g. soil and possibilities of land use, access to technical infrastructure, access to social infrastructure, etc.), evaluation of the location in terms of environmental impacts and social impacts.

Description of legal mechanisms associated with resettlement: 1) procurement; 2) construction; 3) granting legal titles to properties to resettled people.

### **Public consultations and stakeholder engagement**

Description of various stakeholders, the process of stakeholder engagement/public consultations that will be conducted among the population and stakeholders affected by the implementation of the Project during the preparation of the RAP as well as during the preparation and planning of resettlement.

Description of communities affected by the implementation of the Project and other stakeholders will be engaged in the process of implementation and monitoring of the Project.

Description of the plan for dissemination of information concerning the RAP among project affected communities and stakeholders, including information concerning compensation for lost assets, compensation entitlements, the right to assistance in relocation, and appeal procedures.

### **Grievance redress mechanism**

Detailed description of the procedure for handling complaints and requests submitted during the preparation and implementation of the RAP.

Step-by-step description of the process of registration and handling of complaints and an appeal procedure.

Description how a given case can be referred to civil courts if other options fail.

### **Institutional structure and implementation team**

Detailed description of the team managing the preparation and implementation of the RAPs for particular investments, including the team structure and responsibilities of the team members.

Identification of the agency that will coordinate the activities of all Implementing Agencies.

Description of external institutions engaged in the process of restoration of living conditions of the affected population (land development, allocation of land, loans and training) and of mechanisms that will ensure appropriate actions of these institutions.

Discussion about institutional capacity related to the process of land acquisition/resettlement and engagement of particular institutions in this process.

Description of mechanisms designed to ensure independent monitoring, evaluation and final audit of RAP implementation as well as to ensure that corrective measures will be taken in a timely manner.

### **Monitoring and evaluation**

Description of the internal process of monitoring of the implementation of such plans and their effects.

Description of key monitoring indicators developed based on the baseline situation and a list of monitoring indicators that will be applied to conduct internal monitoring.

### **Costs and budget**

Estimated costs of land acquisition for specific investments and estimated resettlement costs as well as sources of financing.

### **RAP implementation schedule**

Chronological list of RAP implementation steps, including agencies responsible for each activity and a short description of each activity.

Preparation of a RAP implementation schedule that will show, month after month, activities that will be undertaken as part of the RAP implementation (e.g. using a Gantt chart).

## **10.2 TEMPLATE NO. 2. TEMPLATES FOR DESCRIPTION OF THE BASELINE SOCIO- ECONOMIC SITUATION AND MONITORING INDICATORS**

Because the size of the population in the areas where the investments are planned to be carried out makes it impossible to survey every member of the local communities, hence the study will be divided into two parts. The first part of the study is designed to analyze the socio-economic situation of project affected people (PAPs). It will include PAPs who reside or own land or a business within the investment area or in its vicinity. Pollsters will conduct direct interviews with household members using a questionnaire that consists of three parts: I, II and III.

The second part of the study will include local communities, among which households will be randomly selected; parts I and III of the questionnaire, including a self-addressed envelope, will be sent to these households. Due to a low return rate of questionnaires sent by mail, the number of questionnaires sent will be three times the size of the representative research sample (a sample questionnaire is shown in Annex 2).

## 11 LIST OF ANNEXES

**Annex 1.** Reports on the public consultation process (including relevant attendance lists)

**Annex 2.** Sample survey questionnaire on the socio-economic situation of PAPs

**Annex 3.** Structure (outline) of the LAAP-RAP EX-POST (FINAL) report and the methodology for its preparation, together with sample questions for ex post qualitative research surveys.