



European Bank
for Reconstruction and Development



Environmental and Social Requirement 5:
Land acquisition, restrictions on land use
and involuntary resettlement

Guidance note

December 2025

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Guidance note

Environmental and Social Requirement 5

1. Introduction and objectives

1. Introduction and objectives

1.1. Purpose of this guidance note

The European Bank for Reconstruction and Development's (EBRD) Environmental and Social Requirement 5 (ESR 5) under the Environmental and Social Policy (ESP)¹ addresses land acquisition, restrictions on land use and involuntary resettlement. The EBRD's Board of Directors approved the 2024 ESP and its 10 related Environmental and Social Requirements on 10 October 2024. They apply to projects started from 1 January 2025.

ESR 5 recognises that “unless properly managed, involuntary resettlement may result in long-term hardship and impoverishment for affected persons and communities”. Resettlement is viewed as one of the most significant project risks by international financial institutions, as it directly affects livelihoods, health, well-being and human rights. In response, the EBRD – like other multilateral institutions – has established a dedicated standard, ESR 5, to guide the management of displacement impacts, involuntary resettlement and livelihood restoration.

This guidance note provides EBRD clients, consultants and other stakeholders with practical guidance for implementing the requirements of ESR 5: Land acquisition, restrictions on land use and involuntary resettlement. It is designed to be a user-friendly resource that supports clients, their consultants and other stakeholders in understanding and applying the requirements of ESR 5 effectively. The guidance note itself is non-binding and complements ESR 5 by providing additional detail to support implementation. In the event of any inconsistency, the provisions of ESR 5 take precedence. The guidance note may be updated periodically.

This guidance note supersedes the previous Performance Requirement (PR) 5 guidance note, which was prepared in line with the previous ESP dated 2019. However, the *Resettlement Guidance and Good Practice* document published by the EBRD in 2016 remains a valuable source of information as it provides practical guidance and useful examples for those involved in projects resulting in resettlement.²

1.2. Key changes from 2019 PR 5 to 2024 ESR 5

The 2024 version of ESR 5 puts more focus on livelihood restoration, physical resettlement and assistance to vulnerable people. Other changes include:

- A new requirement (paragraph 12) has been added to document efforts to avoid and minimise displacement impacts and to justify that residual impacts are unavoidable in the resettlement planning documentation.

¹ See EBRD (2024a).

² See EBRD (2016).

- Requirements associated with “legacy” land acquisition³ (paragraph 7) have been clarified, emphasising compliance with national legislation and applying a risk-based approach to address any residual impacts to meet the “key objectives” of ESR 5.
- Requirements related to ongoing land acquisitions have been clarified to provide that any land acquisition activities already in progress at the time of the EBRD’s involvement in the project fully comply with the provisions of ESR 5, consistent with the requirements for any future land acquisition.
- Requirements pertaining to avoidance and minimisation of displacement (paragraph 12) and forced and unavoidable evictions (paragraphs 13 to 14) have been clarified. A new requirement has been introduced for clients to report any unavoidable eviction cases in advance of implementation, with a statement outlining how the requirements of ESR 5 on unavoidable evictions will be met (paragraph 15).
- The definition and conditions of “negotiated settlements” (paragraph 16) have been clarified, particularly in terms of handling asymmetry of information and powers between the project and project-affected persons (PAPs).
- Requirements regarding the assessment of cumulative impacts from repeated sequences of land acquisition have been clarified (paragraph 24), including considerations related to associated facilities, in accordance with ESR 1: Assessment and management of environmental and social risks and impacts.⁴
- The terminology and requirements applicable to census and surveys have been clarified (paragraphs 25 to 29).
- New provisions in regards of “orphan land” have been added (paragraph 33).
- New provisions have been introduced in cases where urgent expropriation processes are triggered (paragraph 40).
- Requirements pertaining to compensation and physical resettlement have been clarified (paragraphs 34 to 41, as well as paragraphs 67 to 73). The same applies to provisions applicable to temporary restrictions (paragraphs 42 and 43), land acquired by contractors (paragraph 43), land acquisition for associated facilities (paragraph 44) and additional, unanticipated land acquisition becoming necessary during project implementation (paragraph 53).
- Requirements have been clarified for accessible, transparent and responsive grievance mechanisms that allow safe reporting and timely resolution of concerns (paragraph 50).
- Required resources have been clarified regarding resettlement planning, implementation, monitoring and reporting, including contingencies, staffing, training and inflation allowances, with timely fund availability and clear documentation in the resettlement plan (RP) or related documents (paragraph 57).
- Potential displacement impacts that may occur in host communities are addressed in new requirements (paragraph 69).

1.3. Key objectives of ESR 5

Paragraph 4 of ESR 5 sets out the key objectives, consistent with the overarching mitigation hierarchy established in the ESP and ESR 1, as follows:

³ “Legacy” land acquisition refers to physical displacement or economic displacement carried out by the client or a government for purposes relevant to the project before the EBRD’s involvement.

⁴ See EBRD (2024a), pp. 30-36.

- Avoid or minimise involuntary resettlement.
- Avoid forced eviction.
- Mitigate unavoidable displacement impacts by:
 - providing timely compensation for loss of assets at full replacement cost
 - assisting affected persons in their efforts to improve or at least restore their livelihoods and standards of living
 - improving the living conditions of physically displaced vulnerable people by providing adequate housing with security of tenure
 - ensuring that all involuntary resettlement activities are planned and implemented with meaningful consultation, participation and disclosure of information
 - providing affected persons with access to grievance mechanisms in accordance with ESR 10: Stakeholder engagement⁵
 - enabling displaced persons to benefit directly from the project.

1.4. Organisation of this guidance note

This guidance note is structured as follows:

- Chapter 1: Introduction and objectives
- Chapter 2: Applicability and scope of ESR 5
- Chapter 3: Requirements
- Chapter 4: Resources
- Annexes:
 1. Glossary
 2. How to address legacy resettlement
 3. Forced evictions
 4. Vulnerable people
 5. Gender
 6. Valuation
 7. How to develop an entitlement matrix
 8. Monitoring and evaluation
 9. Resettlement plan – sample outline
 10. Resettlement plan for projects with limited impacts – sample outline
 11. Resettlement framework – sample outline
 12. Additional resources

⁵ See EBRD (2024a), pp. 99-106.

1.5. Terminology: compensation, livelihood restoration and involuntary resettlement

This guidance note includes a detailed glossary (Annex 1) that provides definitions of key terms used in ESR 5 and in the guidance note. The following table provides clarifications of the following key terms:

(i) compensation; (ii) livelihood restoration; (iii) involuntary resettlement; (iv) community development.

Table 1: Compensation, livelihood restoration and involuntary resettlement

Question	Compensation	Livelihood restoration	Involuntary resettlement
What is it?	Compensation refers to the payment in cash or in kind to individuals or communities for the loss of land, assets, crops, trees or access to assets resulting from project-related land acquisition or restrictions on land use. Compensation must be at full replacement cost.	Livelihood restoration refers to a full range of measures designed to enable physically and/or economically displaced persons to restore – or preferably improve – their livelihoods and income sources relative to pre-project levels. These measures are implemented in addition to compensation for lost assets, as they specifically address loss of income, employment or access to productive resources. While compensation is intended to replace lost assets, livelihood restoration focuses on ensuring the long-term economic resilience of affected persons.	The term “involuntary resettlement” refers to both physical displacement and economic displacement impacts, as well as to the processes of mitigating and compensating for these impacts. Resettlement is considered involuntary when affected persons or affected communities do not have the right to refuse land acquisition or restrictions on land use, other assets and natural resources, even if compulsory acquisition is used only as a last resort after a negotiated process.
What is it meant to mitigate?	Loss of assets.	Loss of livelihood, also called economic displacement.	Loss of shelter (residential buildings) caused by physical displacement and loss of livelihoods caused by economic displacement.
Examples	An agricultural plot containing trees is required for the construction of a pumping station, resulting in the loss of land and associated assets. To address this loss, the owner will receive compensation, either through a monetary payment equivalent to the full replacement cost or through in-kind replacement of the land, trees or any affected structures.	A farmer’s income is affected by the loss of land and the resulting inability to continue agricultural activities. Similarly, the operator and employees of a roadside restaurant will experience economic displacement as road construction or subsequent operations restrict or block customer access to the business. In both cases, it is necessary to implement measures that go beyond compensation for physical losses – such as land or structures – and focus on restoring the livelihoods of those affected through targeted livelihood restoration support.	A house must be removed to allow for road construction, resulting in physical displacement of the homeowner. In addition, the owner experiences economic displacement due to the impact on their livelihoods. To address these impacts, the homeowner is provided with a replacement house along with livelihood restoration support to help re-establish their income sources.

Question	Compensation	Livelihood restoration	Involuntary resettlement
What drives it?	Local laws typically have detailed provisions in relation to compensation of assets that are formally owned or for which there is a legitimate claim to legalise ownership. International standards also require compensation of lost assets (regardless of formal ownership).	International standards such as ESR 5.	International standards such as ESR 5. Few countries have a physical resettlement law alongside expropriation legislation. Such laws govern planned relocation and housing provision for people displaced by urban regeneration, natural disasters or development projects.
Is it an obligation or a “nice to have under ESR 5”?	Compensation for lost assets at full replacement value is an obligation whenever there is land acquisition or restrictions on land use and natural resources.	It is an obligation under ESR 5 as long as there is economic displacement.	It is an obligation under ESR 5 as long as there is physical or economic displacement.
Is it part of community development?	No. To support the acceptance, adaptation and/or integration of resettled populations into host communities, clients are encouraged to consider enhancing mitigation measures through community development projects that deliver direct benefits to both displaced persons and the wider local population. Designing and implementing initiatives that engage both PAPs and host communities is recognised as good international practice, as it contributes to securing and sustaining a project’s social licence to operate. Although community development extends beyond the core obligations of impact avoidance and mitigation, it can provide meaningful additionality by addressing broader community needs. However, it is essential to clearly distinguish these community development initiatives from the mandatory requirements under ESR 5, including compensation, resettlement assistance and livelihood restoration. Nevertheless, in many cases, community development efforts can usefully complement these actions by further supporting the livelihoods of affected households and strengthening overall community resilience.		

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Guidance note

Environmental and Social Requirement 5

2. Applicability and scope of ESR 5

2. Applicability and scope of ESR 5

2.1. Applicability of ESR 5

2.1.1. Overview

Most projects involving land acquisition trigger the application of ESR 5. During the early stages of project development, and unless the client can provide clear and credible evidence to demonstrate that ESR 5 does not apply – as outlined in the conditions below – it is reasonable to assume that ESR 5 is applicable to any project that entails land acquisition and/or restricts access to resources in a manner that affects people's assets and livelihoods. The conditions for applicability are clearly defined in paragraph 6 of ESR 5. ESR 5 applies to projects involving physical and/or economic displacement, regardless of scale or duration, whether permanent or temporary, arising from any of the following types of transactions:

- Land rights and/or assets acquired through expropriation or other compulsory procedures in accordance with national law.
- Land rights and/or assets acquired through negotiated settlements, if expropriation or other compulsory processes can be initiated where negotiation fails.
- Restrictions that result in people experiencing loss of access to land, assets, natural resources or livelihoods, irrespective of whether such rights of restriction are acquired through negotiation, expropriation, compulsory purchase or by means of government regulation.
- Relocation of people without formal, traditional or recognisable usage rights under national law, who are occupying or utilising land prior to the cut-off date.
- Displacement of people as a result of project impacts that render their land or assets unusable or inaccessible.
- Displacement impacts that may occur in host communities due to the relocation into such communities of affected persons physically displaced by a project.

2.1.2. "Legacy" land acquisition and resettlement

ESR 5 also applies to any physical displacement or economic displacement carried out by the client or a government for purposes relevant to the project before EBRD involvement. The client is responsible for identifying any residual risks, impacts, and vulnerabilities related to such "legacy" displacement. The identification and assessment of legacy risks and impacts will be carried out as an independent audit by competent qualified expert(s) following a risk-based approach. The audit results must be documented and submitted to the EBRD for review, including an assessment of the client's capacity and commitment to address any outstanding issues in line with the requirements of ESR 5.

Related requirements have been clarified in the 2024 version of ESR 5, as follows:

- Where displacement has already occurred prior to the involvement of the Bank, an audit will be conducted to identify: (i) compliance with national legislation and the key objectives of this ESR; (ii) any

significant deviations in past activities from the key objectives of this ESR, including in respect to the rights of vulnerable people (see also Section 3.2 for considerations for vulnerable people and Section 3.1.4 for forced evictions); and (iii) the corrective actions that may be required to address the gaps, as identified through the audit, to ensure compliance with the key objectives of this ESR.

- A prerequisite to receiving financing approval from the EBRD is the provision of a corrective action plan that will describe all activities to achieve compliance with ESR 5 in the form of a timebound plan, including a budget, implementation arrangements, allocation of roles and responsibilities, and an implementation schedule. This corrective action plan (CAP) can be included in or referenced by the project environmental and social action plan (ESAP) prior to Board approval of the project. Where practical, implementation of the CAP should be substantially completed before construction begins; otherwise, the ESAP will clearly define specific deadlines for its completion.
- Ongoing land acquisition, even if it was started before the EBRD's involvement, will be required to comply with this ESR, and a specific planning instrument (typically a resettlement plan) will be developed to cover ongoing and future land acquisition.

Annex 2 provides further details on how to address legacy resettlement.

2.1.3. Applicability of the different sections of ESR 5

For projects to which ESR 5 applies, all requirements contained in ESR 5, paragraphs 1 to 66, apply. Requirements contained in paragraphs 67 to 73 apply only to projects that entail physical displacement, while requirements in paragraphs 74 to 76 apply only to projects that cause economic displacement.

2.2. Non-applicability of ESR 5

2.2.1. Overview

ESR 5 is not applicable in the following cases:

- Where a project entails no acquisition of, access to or restrictions to land and/or assets, and as a result there is no impact to people or livelihoods depending on this land or assets.
- In cases of voluntary land transactions where the seller is not under obligation, coercion, intimidation or inducement to sell, and where the buyer has no recourse to expropriation or other compulsory measures if negotiations fail – provided such transactions affect only individuals with legally recognised rights to the land. However, this ESR will apply where voluntary land transactions result in the displacement of persons (other than the seller) who occupy, use or claim rights to the land, such as informal tenants or other users without legal recognition under national law (see ESR 5, paragraph 8, first bullet, and Section 2.2.2 of this guidance note).
- People displaced as a direct result of natural disasters, conflict, crime or violence – such as refugees or internally displaced persons (IDPs) – are not covered by ESR 5 (see Section 2.2.3).

2.2.2. Voluntary transactions (or “willing buyer – willing seller”)

Voluntary sale-purchase transactions (also referred to as “willing buyer – willing seller”) imply that: (i) the affected landowner can refuse the transaction (for example, where the planned facility can easily be relocated to another land plot); and (ii) the price paid is in line with market rates. In such cases, ESR 5 is not applicable, but the EBRD expects that compensation be paid in line with market rates.

Negotiated transactions shall not be deemed voluntary where the client retains the right to resort, at any stage, to expropriation or another similar compulsory process to acquire land, whether due to the unwillingness of landowners to reach an agreement or as a result of legal and/or administrative constraints, regardless of whether such compulsory measures are ultimately enacted. In such cases, ESR 5 does apply. Where transactions are purely voluntary, impacts to the livelihoods of land users other than the landowner (even if they are informal) need to be considered as the presence of such users would trigger the application of ESR 5 (see ESR 5, paragraph 8, first bullet). This applies regardless of whether the regime of tenure is formal or informal. For example, if there are herders informally using a land plot that is voluntarily sold to the project by its owner or that has already been acquired by the state, ESR 5 will apply and adequate livelihood restoration measures will have to be developed for the herders.

Note that voluntary sale-purchase transactions differ from voluntary land donations, which are addressed separately in Section 3.6.8.

2.2.3. Refugees, IDPs and victims of natural disasters

Where conflict-induced displacement has occurred prior to project-induced displacement, the involuntary resettlement process will be guided by the United Nations' (UN) *Guiding Principles on Internal Displacement*⁶ and ESR 5 will not apply.

This applies to situations in which the EBRD supports projects designed to respond to humanitarian needs, such as the provision of resettlement assistance to refugees or IDPs affected by conflict or natural disasters. This approach recognises that such displacement is fundamentally different from project-induced resettlement. Such projects are expected to design and implement appropriate mitigation measures, including emergency assistance and temporary housing to meet the immediate needs of populations displaced by conflict or disasters, in line with international humanitarian standards and guided by the principles set out in the UN *Guiding Principles on Internal Displacement* rather than ESR 5.

2.3. Impacts to livelihoods unrelated to land acquisition

Where livelihood impacts arise from environmental or construction-related activities that are not linked to land acquisition, temporary land occupation or restrictions on resource use, such impacts fall outside the scope of ESR 5 and will be addressed in accordance with the requirements of ESR 1 through the environmental and social impact assessment process, such as environmental and social impact assessments (ESIAs) and specific environmental and social (E&S) management plans, including mitigations measures. Nevertheless, these impacts may still require targeted compensation and/or livelihood restoration measures, which should be designed in line with the requirements set out in ESR 5 (see ESR 5, paragraph 75). Examples of such impacts include:

- Agricultural or related activities (such as beekeeping and fishing) disrupted by industrial emissions, water pollution or dust generated during construction.
- Businesses such as shops and restaurants experiencing reduced customer access due to a newly constructed road bypass.
- Waste pickers losing access to livelihoods following the closure of an existing dumpsite.
- Damage to assets caused by construction or operation-related vibrations.

⁶ See UN (2004).

In all such cases, the client is required to develop compensation and/or livelihood restoration measures in line with the principles of ESR 5 and consistent with the approaches used to mitigate livelihood impacts arising from land acquisition or restrictions on land use.

Impacts to artisanal miners (minerals, sand, aggregates) affected by a project⁷ are to be addressed in accordance with ESR 5 within the resettlement and/or livelihood planning documentation and process, given that these impacts generally result from land acquisition or restrictions.

2.4. Scope of ESR 5

ESR 5 covers the full range of impacts on people and their livelihoods resulting from land acquisition (including but not limited to land expropriation) or restriction of access to resources and assets. In addition to standard land acquisition from rightful owners that is typically addressed by local law and temporary land occupation (such as lease agreements for construction purposes), this includes the following types of land acquisition or restrictions:

- Displacement of people without formal, traditional or recognisable usage rights under national laws, who are occupying or using land, assets or natural resources prior to the cut-off date. Typical examples include:
 - Persons using public land informally for agricultural purposes, including grazing animals; for example, affected persons may be using land based on an unregistered written or verbal agreement with a municipal authority, a situation that is relatively common in the Caucasus and North African countries (for example high mountain pasture land used informally and seasonally by transhumant herders).
 - Informal renters or sharecroppers of private land.
 - People using land based on an informal customary regime, a situation commonly encountered in North Africa, sub-Saharan Africa, Türkiye, the Caucasus and Central Asia.
 - Renters – whether formal or informal – or other occupiers in dwellings that are affected by a project and that would typically not be eligible for compensation or assistance under local legislation.
 - Fishermen in nearshore or continental waters who may be registered as businesses but have no registered right to use a certain water body that is usually deemed state property.
 - Gatherers of natural products (mushrooms, berries, grass, straw, and wood for use as fuel or timber).
 - Temporary users of an affected land or natural resource, which could include beekeepers moving from one area to another, transhumant or nomadic herders, and certain mobile communities such as the Roma in Europe.
- Economic or physical displacement of people as a result of project impacts that render their land, assets or resources unusable or inaccessible. Typical examples include:
 - Residents who have to be relocated due to the environmental impacts of the project (such as noise or vibration) exceeding acceptable standards for residency (for instance near a high-speed rail line).
 - Fishermen who have to move from a landing site due to dam construction in continental waters or due to port construction (and/or associated ship manoeuvring areas) in sea waters.

⁷ Whether by land acquisition, or indirectly because of a prohibition of artisanal mining enforced by the state when a new mining project takes place.

- Temporary or permanent restrictions on access to businesses caused by road or other construction activities.
- Waste pickers unable to use dump/landfill sites.
- Gatherers, herders or hunters using natural resources on communal or state-owned land (forest, meadows, wetlands) affected by a project.
- Restrictions on land use that result in loss of access to land, assets, natural resources or livelihoods, irrespective of the process to acquire such rights or impose restrictions (whether through negotiation, expropriation, compulsory purchase or government regulation). Typical examples include:
 - Rights of way required by the construction of linear or other projects (such as transmission lines or pipelines) where land is occupied temporarily during construction and a permanent restriction is then imposed during operations (such as prohibitions on building construction or the planting of tall trees).
 - Restrictions on land use in “sanitary protection zones”⁸ around potentially hazardous industrial facilities, water storage reservoirs and other areas; this may result in assets losing value if building or residency are prohibited, or even in the loss of the assets themselves if they are rendered unusable.
 - Restrictions on land use in or around biodiversity conservation areas such as national parks and reserves.
 - Severance of access to certain lands or natural resources, with associated impacts to livelihoods (for example, a linear project such as a high-speed railway or motorway that is fenced off for safety reasons and hinders community access to grazing areas).

8 Also referred to as “health protection zones”, “water protection zones”, “protection perimeters” or similar, depending on applicable legislation in different jurisdictions.

Guidance note

Environmental and Social Requirement 5

3. Requirements

3. Requirements

3.1. General requirements

3.1.1. Project categorisation

Displacement is one of the criteria driving project categorisation under the EBRD ESP. “Projects that may involve significant involuntary resettlement or economic displacement” are classified as “Category A”, as established in ESP Annex B.⁹ “Significant” under this categorisation is context-specific and will be assessed by the EBRD on a case-by-case basis, taking into consideration project and displacement risks.

However, all ESR 5 requirements apply equally to both Category A and Category B projects that involve physical and/or economic involuntary resettlement.

3.1.2. Process

3.1.2.1. Integration of resettlement scoping and planning into the ESIA process

For Category A projects – where an ESIA is required – it is considered good practice, although not a formal requirement under ESR 5, to integrate resettlement scoping and planning process into the ESIA or ideally to initiate them at the pre-feasibility stage prior to commencement of the ESIA. Such early integration enables a comprehensive review of project alternatives and design options and informs a proposed design that effectively integrates both environmental and displacement considerations (see Section 3.1.3).

However, some jurisdictions demand that the project be permitted first. This would typically require an environmental impact assessment (EIA) and a declaration of public interest to be issued in a further step, which is the necessary legal trigger to commence asset inventory and valuation surveys and resettlement planning. In such cases, the client must engage with the EBRD to identify a mutually agreeable solution. Such situations would typically require the client to provide the EBRD with an update to the permitted EIA (for example in the form of an ESIA or supplementary lender information package¹⁰) when the resettlement planning process is complete and the RP can be submitted.

For Category B projects, early resettlement scoping is necessary to drive further planning and particularly to trigger the impact avoidance and minimisation process described in Section 3.1.3 of this guidance note.

3.1.2.2. Baseline surveys

Baseline surveys required by paragraph 10 of ESR 5 are addressed in further detail in Section 3.4 of this guidance note.

⁹ See EBRD (2024a), p. 28.

¹⁰ Which may cover other issues not addressed in local regulations but required by the EBRD's ESRs, such as a biodiversity action plan.

3.1.2.3. Engaging resettlement experts

For any project that entails “significant” resettlement, the EBRD requires under ESR 5 that the project engage independent resettlement experts to support the resettlement planning, implementation and monitoring process and prepare associated documents required in each project phase. While international specialists may be necessary for their expertise, they should be complemented by local experts who possess thorough knowledge of applicable local regulations and social contexts. Furthermore, many jurisdictions and the EBRD require that valuations be undertaken by independent valuers who are certified locally. National valuers should ideally also have demonstrated experience with applying the “replacement cost” methodology as required by international lenders.¹¹

For projects that entail no “significant” resettlement as defined in the ESP, the client may undertake the resettlement planning process and prepare resettlement planning documents in line with ESR 5 if they have sufficient capacity. This will need to be confirmed with the EBRD prior to the preparation of resettlement planning documents.

3.1.2.4. Resettlement planning documents

Resettlement planning documents required by paragraph 11 of ESR 5 are addressed in further detail in Section 3.16.

3.1.3. Avoidance and minimisation of displacement

Whenever a project causes potential displacement, the first duty of the EBRD client is to seek avoidance of displacement, consistent with the mitigation hierarchy in ESR 1. As stated in ESR 5, paragraph 12, “avoidance is the preferred approach”. Experience shows that alternative project designs are often possible, although they are often discarded or not considered due to insufficient or inadequate scrutiny, with the existing design taken as a given and insufficient effort made to optimise it to avoid or minimise displacement.

The EBRD requires a comprehensive assessment of alternative project designs commensurate with the magnitude of potential displacement, including consultation with affected parties. Examples include:

- Optimising the location and height of a dam to minimise land occupied by the reservoir and the resulting physical or economic displacement.
- Looking for alternative routes for linear projects (roads, railways, transmission lines and pipelines) that would bypass settlements or agricultural land, and once a corridor has been selected, exploring micro-routing options within that corridor, and actively consulting local communities as part of this process.
- Identifying sites located well away from settlements and agricultural land for projects involving industrial plants and power production (including renewables), which may involve moving onshore wind turbines to areas where no farming takes place and minimising disturbance to fishermen caused by offshore wind turbines.

The summarised outcomes of the avoidance and minimisation process must be available prior to any financing approvals by the Bank and can be presented either in the ESIA as part of the assessment of alternatives, or in the RP. An important part of this is a preliminary estimate of the cost of resettlement.

¹¹ In government-led projects, using government valuers may raise concerns about independence due to their affiliation with the project sponsor. Where feasible, engaging independent valuers is recommended to ensure transparency and alignment with good practice.

Mitigation and compensation for physical and economic displacement can be costly, and cost assessments need to be thoroughly reviewed and updated throughout the planning process to avoid underestimation and allow for preparation of a comprehensive budget.

Avoidance and minimisation of displacement impacts are particularly critical in two specific situations:

- Where Indigenous Peoples or other vulnerable groups may be affected, as the resulting impacts are often more severe and sometimes irreversible.
- Where cemeteries, places of worship or other sites of cultural/religious significance may be impacted, given that such losses are highly sensitive for affected communities and can provoke strong opposition, potentially delaying or hindering project progress. These considerations are also reflected in ESR 7: Indigenous Peoples¹² and ESR 8: Cultural heritage,¹³ as well in Section 3.10 of this guidance note.

Avoidance and minimisation of displacement must not come at the expense of safety, health and/or the environment. This highlights the importance of integrated ESIA processes, rather than isolated team efforts. For example, safety buffers around potentially hazardous industrial facilities should be maintained in line with the applicable regulations and sound ESIA assessment. Community cohesion is another important consideration; in some cases, maintaining social and economic sustainability may require relocating an entire community rather than only those directly within the project footprint. The ESIA or the RP must document the measures taken to avoid and minimise displacement and provide a clear justification for any residual impacts deemed unavoidable. The ESIA or RP should also include a specific section on avoidance and minimisation that should be structured as follows, in accordance with good practice:

- initial design and displacement impacts
- optimisation process, including a summary of the technical and economic review of alternatives, and a description of the consultation process and outcomes with affected parties and relevant authorities
- outcomes of the optimisation process, change in design and benefits of the optimisation.

The client will document in a comparative table the number of potential physically displaced households and individuals before and after design optimisation. Associated consultation processes and outcomes should also be documented as an Annex to either the ESIA or RP.

The client will also address any further changes and the process for managing these changes from a land acquisition, resettlement and livelihood restoration perspective, as changes to the footprint may occur in projects after the RP has been submitted and approved. In practice, the RP should include a “change management” section addressing further changes occurring after approval of the RP, including associated consultation and notifications to the EBRD. Where changes are deemed “material changes”, an addendum to the RP may be required.

¹² See EBRD (2024a), pp.82-88.

¹³ See EBRD (2024a), pp. 89-94.

3.1.4. Forced evictions

Forced evictions are prohibited by international human rights law¹⁴ and are listed in the EBRD's Environmental and Social Exclusion List, provided in ESP Annex A.¹⁵ This is an absolute prohibition that applies regardless of the circumstances and extent of the eviction. The Bank will not knowingly finance any project that involves forced eviction.

The use of eminent domain or similar powers will not be considered forced eviction if it complies with national law and follows due process defined in ESR 5, paragraphs 13-15 – ensuring advance notice, access to grievance mechanisms, no use of excessive force, no resulting homelessness, and payment of adequate compensation before eviction. Clients must notify the EBRD prior to any unavoidable eviction, confirming that these conditions are met. Further details are provided in Annex 3 of this guidance note.

Where forced eviction has occurred prior to the Bank's involvement but is linked to a purpose associated with the project, specific investigations will be undertaken by the independent experts as part of the audit of past land acquisition and will be presented to and assessed by the Bank on a case-by-case basis (see Section 2.1.2).

However, as a general principle, the Bank's Environmental and Social Exclusion List will apply if the forced eviction was connected to the project's purpose, regardless of whether it occurred before the Bank's engagement.

3.1.5. Negotiated settlements

Clients are expected to seek land rights through negotiated settlements, even in cases where they have the legal authority to acquire land without the consent of the seller. This approach helps avoid or minimise the need for expropriation and prevents delays associated with administrative or judicial proceedings. Most importantly, negotiated settlements can significantly reduce adverse impacts on affected persons.

Principles of fair negotiation

Negotiation is understood as a process aimed at achieving an agreement that is mutually acceptable to both parties. In line with good international practice and ESR 5, paragraph 16, negotiations must meet the following core principles:

- Good faith: both parties must genuinely seek to reach an agreement.
- Adequate time: sufficient time must be provided to allow meaningful dialogue and decision-making.
- Transparency and neutrality: the process must be open, well-documented and free from favouritism.
- Balance of power: efforts should be made to avoid imbalances, such as vulnerable or illiterate landowners negotiating against multiple legal professionals in a language they do not understand.
- Freedom from coercion: no party should be subjected to pressure, threats or undue influence.
- Access to support: affected persons should have access to legal advice, independent support and a credible grievance redress mechanism.

¹⁴ Based on the UN *Universal Declaration of Human Rights* (1948), Article 17, which states that "No one shall be arbitrarily deprived of his property."

¹⁵ See EBRD (2024a), pp. 26-27.

The Bank requires clients to document the negotiation process in detail to demonstrate that these principles have been met.

In cases of large-scale land acquisition and resettlement, negotiations should be conducted at the collective level through legitimate representative organisations. These may include municipal councils, farmers' associations or agricultural cooperatives, business associations or specially established committees representing affected persons. The negotiation process typically unfolds in sequential stages, such as:

- agreeing on negotiation procedures and representation
- defining the principles of compensation
- determining compensation rates and entitlements.

Given its complexity, this process may be time-consuming and should be integrated into the project's planning and scheduling from the outset.

Where representative committees are formed, the client must ensure that they are inclusive and reflective of the affected population, including women, youth, minorities and other vulnerable groups. This is essential to promote legitimacy, transparency and equity in the negotiation process.

Once a collective agreement has been reached with the broader group of affected persons – particularly on compensation rates or entitlements – individual bargaining should generally be avoided. Allowing separate negotiations may create perceptions of unfairness or a lack of transparency, potentially undermining the legitimacy of the entire process. However, some limited individual adjustments may be appropriate where clearly justified, such as to reflect differences in interior finishes of structures, crop productivity or other objectively verifiable distinctions.

To support fairness and informed participation, it is considered good practice for the project to provide affected persons with access to independent legal advice during the design and implementation of resettlement. This support may be delivered by qualified non-governmental organisations (NGOs), human rights organisations or private legal practitioners with experience in land and resettlement matters.

Lastly, it is essential to distinguish between negotiated settlements and voluntary transactions (or "willing buyer – willing seller" arrangements). As detailed in Section 2.2.2, negotiated settlements may still occur within a legal framework of expropriation or compulsory acquisition, which automatically triggers the application of ESR 5 safeguards, regardless of whether both parties appear to consent.

3.2. Consideration of vulnerable groups

Vulnerable groups may be disproportionately affected even when the negotiation process is considered successful for the majority. There is a heightened risk that they may be excluded, fail to benefit or experience greater negative impacts. The client is required to identify, assess and address risks and impacts on vulnerable individuals throughout the project's design, preparation and implementation phases. The vulnerability assessment must be context-specific and conducted in line with ESR 1 (as indicated in ESR 5, paragraphs 17-18).

In accordance with ESR 7, the client shall give special attention to vulnerable groups that may be disproportionately affected by the resettlement process. Where Indigenous Peoples are involved, the client must ensure that consultation processes incorporate culturally appropriate methods and safeguards. In

cases where required by ESR 7, the client is also obligated to obtain free, prior and informed consent (FPIC) before proceeding. Annex 4 of this guidance note provides details on processes, methodologies and the expected outcomes of activities aimed at mitigating disproportionate impacts to vulnerable people.

3.3. Consideration of gender aspects

Land acquisition, displacement and resettlement can have differentiated impacts on individuals based on gender, often resulting in unequal access to compensation, participation and livelihood restoration measures, as detailed in ESR 5, paragraphs 19-22. In many jurisdictions, only male ownership of real estate is formally recognised. In others, while joint ownership by spouses may be legally provided for, customary practices often result in men holding effective control over land and productive assets. Women may consequently be excluded from compensation entitlements, particularly where compensation is provided in cash. This exclusion may lead to significant negative outcomes – especially if male household members use compensation to pursue individual interests, rather than shared household needs. Moreover, women's contributions to household livelihoods are frequently non-monetary and therefore at risk of being overlooked. For instance:

- In many agricultural households, sales revenues are managed by male members, even though women's labour is essential in crop production or animal husbandry.
- Women often shoulder the burden of domestic and caregiving responsibilities, which are not monetised but are critical to household well-being.
- Women's roles in gathering natural resources – such as berries, fuelwood and building materials – are frequently omitted from baseline assessments and inadequately addressed in livelihood restoration planning.

Due to such gender biases in baseline data collection, impact assessment and stakeholder engagement, women's roles and vulnerabilities are often under-represented in the design of livelihood restoration and improvement programmes. In addition, legal or social frameworks in some jurisdictions may discriminate against individuals based on sexual orientation or gender identity, including by limiting their access to property as tenants, landlords or occupiers. Such exclusion can further exacerbate vulnerabilities among sexual and gender minorities. To ensure that compensation and mitigation measures are inclusive, equitable and effective, it is essential to:

- Identify gender-specific roles, vulnerabilities and entitlements early in the planning process.
- Ensure that project benefits are equally available to and accessible by all genders.
- Tailor mitigation measures to reflect the distinct needs and contributions of women, men and other gender groups.

Further guidance on conducting gender-sensitive surveys in the context of resettlement planning is provided in Annex 5.

3.4. Baseline surveys and cut-off date

See also Section 3.2 (Consideration of vulnerable groups) and Section 3.3 (Consideration of gender aspects).

3.4.1. General

The key objectives of baseline surveys are:

- Socioeconomic surveys: establish a social and economic profile of affected individuals, communities and groups that will be used for purposes including:
 - devising livelihood restoration activities
 - providing the pre-impact baseline against which post-project livelihood restoration and standards of living will be assessed and monitored
 - providing information for a gender analysis.
- Census: identify all affected people.
- Inventory of affected assets:¹⁶ provide the basis of compensation entitlements.
- Establish a cut-off date after which people moving into the area will not be eligible.
- Vulnerability analysis (see Section 3.2): identify vulnerability factors and pre-identify vulnerable people.

Where socioeconomic surveys have been conducted well in advance of actual impacts, an update may be necessary if the impacts occur three years later – or sooner if significant macroeconomic changes have occurred in the region, to ensure that the pre-impact baseline data accurately reflect the conditions at the time the impacts take place.

3.4.2. Socioeconomic surveys

Socioeconomic surveys typically employ a combination of quantitative methods – such as structured household interviews using standardised questionnaires – and qualitative approaches to obtain a deeper understanding of local social dynamics, livelihoods and vulnerabilities.

For large projects, the design of socioeconomic surveys should be based on a scoping exercise. This preliminary assessment serves to identify key issues, potential project impacts and data gaps, as well as to ensure that the survey methodology and tools are appropriately tailored to the project context.

3.4.2.1. Quantitative surveys

Quantitative surveys are typically administered at the level of affected households based on a structured questionnaire. The questionnaire should be designed to be simple, user-friendly and allow for efficient data coding and processing. The survey instrument should:

- Enable stratified data analysis, with data disaggregated at a minimum by gender and other relevant categories of PAPs.
- Include questions that capture key livelihood indicators to support ongoing monitoring, such as:
 - proxy indicators of income and expenditure

¹⁶ Also called “detailed measurement surveys” by some international financial institutions.

- measures of standard of living, such as ownership of household assets
- access to essential services, including education, healthcare, transport and land or natural resources
- quality of existing housing and security of tenure, where relevant.

Careful attention should be given to ensuring that the questionnaire captures the information necessary to inform both baseline conditions and the future evaluation of livelihood restoration outcomes.

To minimise respondent fatigue, the questionnaire should be designed to be completed within one hour or less wherever possible. In households involving a couple, efforts should be made to administer the questionnaire in the presence of both spouses to receive a balanced representation of perspectives.

Digital data collection tools such as tablets or smartphones are recommended, as they facilitate more efficient and cost-effective survey management, reduce manual data-entry errors and streamline analysis. Questionnaires may also include a section capturing compensation preferences, such as cash versus in-kind compensation and resettlement location preferences. They should also be structured to enable the early identification of vulnerable individuals and include questions relevant to potential vulnerability criteria (as defined in Annex 4).

For large-scale linear projects such as highways or transmission lines that could affect a large number of people with relatively minor individual impacts, or for projects in densely populated urban settings, it may not be practical to survey all affected households. In such cases, the use of a representative sample is acceptable. The size of the sample should allow reasonable statistical confidence (typically 95 per cent confidence for a 5 per cent margin of error).¹⁷ The sample may need to be stratified to reflect geographic units or other relevant differences such as gender or age. However, in cases involving physical resettlement of households, the project should seek to conduct a full census and socioeconomic survey of all affected households, given the scale and severity of potential impacts. Where this is not feasible – such as in cases involving absentee owners or untraceable occupants – the reasons for such limitations must be clearly documented and justified as part of the resettlement planning process. Data protection and privacy considerations must be integrated at the earliest stages of survey design. For further guidance, see Sections 3.4.5 and 3.4.6 on data management and privacy.

3.4.2.2. Qualitative surveys

While household surveys provide a systematic baseline on affected people, qualitative surveys provide further information that is necessary to qualify and elaborate on the quantitative information and better understand specific issues such as:

- land tenure, particularly where informal users are affected
- local governance and decision-making
- gender issues such as those discussed in Section 3.3
- livelihood streams
- vulnerability factors such as those discussed in Section 3.2
- use of communal natural resources and specific livelihood activities such as fishing, hunting, gathering

¹⁷ See EBRD (2016), p. 33.

- compensation preferences¹⁸
- the perspectives of specific groups (such as community leaders, elders, youth, women, the elderly, business communities and other relevant stakeholders as appropriate to the context).

Focus group discussions and key informant interviews are among the most effective and widely used tools for conducting qualitative investigations related to livelihoods and resettlement. Other methods – such as life histories, social mapping or participatory rural appraisal techniques – can also provide valuable insights into household dynamics, vulnerabilities and coping strategies.

All qualitative investigations must be carried out by experienced social scientists and should be systematically documented, analysed and integrated into the resettlement planning process so that their findings meaningfully inform decision-making.

3.4.2.3. Outcome of socioeconomic surveys

The desired outcomes of socioeconomic surveys are listed in ESR 5, paragraph 23, as follows:

- Establish a social and economic profile of the affected communities (for example, village profiles for linear projects) and people, with disaggregation of data by sex and age.
- Identify sources of livelihoods that are affected and their significance to the overall livelihoods of affected people; this would include establishing a baseline of livelihoods, structured around relevant indicators such as income, expenditures, access to health and education, access to land and land tenure, productive capacity and so on.
- Identify land tenure regimes in the affected area.
- Identify any gender issues that may affect the land acquisition and resettlement process.
- Identify relevant factors of vulnerability and establish a list of vulnerable people.

3.4.3. Census and inventory of affected assets

Where cadastral data are available from the relevant authority, census and inventory studies typically start with a review of this data. This will provide a list of land plots located within the affected project footprint or corridor, usually with some basic characteristics, possibly including a “cadastral” or “fiscal” value,¹⁹ and will identify the registered landowners. This is, however, not sufficient and has to be complemented by field surveys to gather the following information in view of further valuation:

- census of affected persons:
 - confirmation of landowners (cadastral data may be obsolete or unavailable, with recent transactions or successions not registered)
 - identification of any land users, whether formal or informal, and whether permanent or seasonal.
- inventory of affected assets (or detailed measurement survey):²⁰

¹⁸ Avoiding overpromising and raising expectations, particularly where some community preferences may not be feasible (for example, where replacement land is not widely available).

¹⁹ Usually much lower than the replacement cost required by ESR 5.

²⁰ The terms “inventory of affected assets” and “detailed measurement surveys” can be used interchangeably.

- physical characteristics (slope, access, soil), actual land use (which may differ from information in the cadastral database), presence of specific developments (such as irrigation or drainage canals), presence of structures and nature/description of these structures
- identification and description of trees and crops
- measurements and detailed characterisation of land plots and structures.

The use of satellite imagery or specific drone flyovers is often useful and cost-effective, particularly where they can be linked to a geographic information system with cadastral information. This should always be considered for large-scale linear projects.

Asset inventories must be designed in accordance with all applicable national valuation requirements. In many EBRD countries of operation, these requirements mandate implementation by licensed topographers and/or certified valuers. In addition to holding valid national accreditation, valuers should possess a sound understanding of both domestic valuation standards and the principle of full replacement cost, as required under ESR 5.

In certain jurisdictions, the survey may have to be conducted by relevant state authorities under their direct control, and/or ultimately submitted to state authorities for formal validation. Where such regulatory procedures apply, it is essential that the client identifies these requirements early in the resettlement planning process as they may pose resource and scheduling constraints that must be anticipated and managed accordingly.

Where cadastral records are outdated or incomplete, the client should take proactive steps to support the updating of these records, such as by engaging relevant authorities, hiring licensed topographers and legal experts, and covering any associated administrative or technical costs. Such early interventions can significantly reduce delays and facilitate smoother project implementation in the long term.

It is critical to carefully consider the timeline for asset inventories within the overall project development schedule, taking the following factors into consideration:

- The project footprint needs to be available to a reasonable level of accuracy, which means the project technical design needs to be sufficiently advanced.
- The inventory and associated cut-off date have a certain period of validity, which could be fixed by legislation (see Section 3.4.4.6).
- Starting too early has adverse social impacts, as affected peoples' agricultural activities and ability to repair their house or engage in transactions may be "frozen" after the inventories have been carried out.

3.4.4. Cut-off date

3.4.4.1. Objective

The cut-off date is the date after which any new development (structures, plantations) established within the project area are not considered for compensation. It is meant to ensure a distinction between people owning, occupying or using the area prior to this date (and that will genuinely be affected by it) and those settling in the area or establishing assets therein for speculative reasons. It is a tool to protect the project from opportunistic claims to undue compensation. The cut-off date should be transparently established and disclosed.

Depending on the project's legal set-up (state-led land acquisition or negotiated process led by a private developer), the cut-off date will be:

- i. as foreseen in applicable legislation (see Section 3.4.4.2)
- ii. a "project-specific" cut-off using the end date of the inventory or project delineation (whichever is the latest – see Section 3.4.4.3).

The client will inform affected persons of the cut-off date (see Section 3.4.4.4).

3.4.4.2. Cut-off date foreseen by applicable legislation

Where the state is involved in land acquisition, the cut-off date as defined by ESR 5, paragraphs 28-29, is usually established by a legal act taken by the government, such as a declaration of public interest (or in some jurisdictions by a specific decree or order taken in application of the declaration of public interest). Where this is the case, the client must coordinate its census and asset survey exercise (both in method and in schedule) with statutory steps required by law. It is also desirable in such cases, although not mandated by law, that socioeconomic surveys should be concurrent with the census and asset surveys. Ensuring consistency between the requirements of ESR 5 and the mandatory steps prescribed by expropriation legislation is usually possible but needs to be planned with care, before the declaration of public interest is taken, and preferably in discussions with the EBRD.

3.4.4.3. Project cut-off date

For private-sector projects or where the cut-off date is not prescribed by a statutory process, the project will establish its own cut-off date. ESR 5 mandates that this cut-off date should be at the end of the census/inventory process. It should be backed by data generated by the inventory of affected assets described in Section 3.4.3, including data produced through drone or satellite surveys or photographs.

It is advisable that the cut-off date should be supported by a legal act taken by a local mayor, district head or regional governor.

3.4.4.4. Disclosure of cut-off date

In cases where the cut-off date is not properly disclosed (for example, where it is announced only through an official gazette or posted only at an administrative centre), the client may face a significant risk of complaints. This risk is particularly pronounced if the land acquisition process is prolonged and compensation is delayed following the asset inventory. For this reason, ESR 5 clearly mandates the transparent and timely disclosure of the cut-off date to the public and affected persons. A cut-off date is considered valid only if it has been properly communicated in accordance with ESR 5 (see paragraph 28).

To ensure the cut-off date is meaningful, disclosure must:

- occur locally, using local languages
- be conducted in a manner that guarantees all affected persons are informed promptly
- be disseminated at regular intervals throughout the project area
- use a combination of written and non-written communication methods that are culturally appropriate, gender-responsive, easily understood and readily accessible

- include clear posted notices warning that individuals settling in the project area after the cut-off date may be subject to removal.

The client should document the cut-off date disclosure and information process in the resettlement plan.

3.4.4.5. Seasonal users and other users

The cut-off date process and the need to implement a census or survey immediately thereafter may result in the omission of people who occupy the project area on a seasonal basis, such as herders, beekeepers, fishermen, waste pickers and sharecroppers. The project must therefore pay attention to the potential presence of such users of the project area when carrying out socioeconomic surveys and consultation with communities. If there are other users who could not be identified and surveyed at the same time as others, they will need to be surveyed later.

The project will also need to make sure that people who use the area formally or informally to source mineral resources or as hunters and gatherers are captured by census and socioeconomic surveys.

3.4.4.6. Validity of cut-off date

It is not uncommon for a complex project to take more time than expected to materialise and it is sometimes found that a declaration of public interest or similar act is issued a long time before the project actually starts. However, requirements pertaining to cut-off date validity contained in ESR 5, paragraph 29, apply:

- Where the cut-off date is established further to a national statutory process (see Section 3.4.4.1), it is valid for the period mandated by that process.
- Where the cut-off date is established by the project (see Section 3.4.4.3), it is valid for a “reasonable period”.

In cases where a cut-off date was established many years earlier and people are found to occupy areas subject to the cut-off, such a cut-off date would typically not qualify as clearly established and made public according to the provisions of ESR 5, paragraph 28. A new census and inventory at a new cut-off date must therefore be carried out.

Such situations can occur in three cases:

- A cut-off was declared and the area was cleared (with compensation), but people returned when they realised the project would not materialise in the near future.
- A cut-off was declared (a census could have taken place, sometimes even some compensation or assistance could have been delivered) but the area was not fully cleared or secured.
- A cut-off was declared but the census dealt only with formal occupants (those with a title) and failed to inform informal users.

In any of these cases, the next steps will depend on applicable legal requirements if the cut-off was declared as part of a mandatory legal process,²¹ and on how much time has passed since the cut-off date was declared (assuming it was clearly established and made public according to the provisions of ESR 5, paragraph 28).

²¹ Most countries have clear requirements in this regard.

Where compensation is delayed or proceeds only after a protracted period, project proponents should consider providing additional compensation to reflect the disturbance, restricted land use and opportunity costs borne by affected people during the delay.

To minimise disruption and uncertainty, it is considered good practice for the cut-off date to remain valid for no more than one year. In any case, the maximum validity should not exceed three years. Beyond this period, an updated census and reassessment of eligibility for compensation is warranted.

Prolonged uncertainty can have serious economic, social and psychological impacts on households and communities – sometimes more severe than the resettlement itself. It is therefore essential that project planning enables predictability and fairness in compensation processes.

3.4.5. Data management

Data relating to surveys, compensation and resettlements have to be properly stored as they will be used throughout resettlement implementation and monitoring. For projects with high numbers of transactions, it is advisable to use professional tools and qualified specialists to manage and store data. A few “off-the-shelf” software solutions are available on the market, but these still need to be tailored and usually require a significant training effort. Tailored tools can also be developed by local IT companies.

A robust data management system should be established early to ensure that data from the census, socioeconomic surveys and land and asset inventories, as well as satellite imagery, land titles and certificates, resettlement and compensation agreements, payment receipts, meeting minutes and monitoring and evaluation reports are systematically stored. Accurate documentation from the outset of all resettlement-related consultations, meetings and agreed actions is essential to demonstrate a sound consultation process, as such records are difficult to reconstruct later.

The data management system also plays a vital role in demonstrating compliance with national and EBRD standards, which in turn supports financing applications, facilitates regular reporting to stakeholders and preserves baseline data for future monitoring.

3.4.6. Data privacy

Clients must review and comply with national data protection and privacy legislation in the countries where they operate, as such laws may affect the collection, processing, storage and sharing of survey data and stakeholder consultation activities. Where required, informed consent must be obtained from PAPs during surveys, with clear information provided about how their data will be used and stored, as well as about their rights to access, correction and withdrawal. In some jurisdictions, data localisation laws may prohibit the storage or processing of personal data outside the country. If national data privacy laws are weak or absent, clients should develop their own privacy and confidentiality policy and procedures in line with good international practice. Clients should ensure all data handling practices are transparent, legally compliant and documented, including any waivers or safeguards applied in accordance with national legislation and good international practice.

3.5. Valuation at full replacement cost

The EBRD, like other multilateral finance institutions, mandates compensation for loss of assets at full replacement cost. This is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where residential structures are

concerned, the full replacement cost method must yield a value that is sufficient to purchase a residence meeting adequate housing criteria.

Valuation is a complex issue, as prescriptions of national legislation sometimes contradict the full replacement cost requirement. It requires the attention and involvement of competent valuers with experience of both national and international prescriptions, as detailed in ESR 5, paragraph 30. Annex 6 of this guidance note provides details on key issues and methodologies that can be used for various types of assets and in different contexts.

3.6. Eligibility classification and considerations for compensation

3.6.1. Eligibility

In line with all other similar standards, the EBRD's ESR 5 distinguishes three categories of rights holders who are eligible for various types of compensation:

- i. Persons who have formal legal rights to the land or assets (including customary and traditional rights recognised under national laws): this corresponds to registered owners with a recognised ownership title held in perpetuity, as well as to customary landowners with no registered title but who are recognised by national law as legitimate owners.
- ii. Persons who do not have formal legal rights to land or assets at the time of the census, but who have a claim to land or assets that is recognised or recognisable under national laws: this corresponds to certain categories of customary users (for example, herders or Indigenous Peoples using common natural resources) who could be recognised under certain conditions, or people who are not fully registered (for example, those whose title has never been updated to reflect current ownership) but who are in the process of registering their rights or are able to do so under national law.
- iii. Persons who have no recognisable legal right or claim to the land or assets they occupy or use. Their level of recognition by national authorities varies but, in most cases, they will not be eligible for compensation for the land they occupy.²²

Note that the word “persons” in the language above covers both natural and legal persons.

3.6.2. Overview of entitlements for the three categories of project-affected persons

Table 2 below provides a brief overview of potential compensation entitlements for all three categories of affected people defined above and in ESR 5, paragraph 31. Further details are provided in Annex 7 of this guidance note.

²² There are many variations depending on the local context and the regime under which these persons occupy land, which could be informal but accepted or tolerated, or illegal and not accepted. These variations may include, depending on the local context, customary users with a certain level of official recognition and illegal occupants typically called “encroachers” or “squatters”. It is important to properly characterise the nature of occupation as the same authorities that tolerate informal occupants (for example by small traders on public rights of way) or raise tax from them may become keen to evict them without cash or in-kind compensation or any form of livelihood or transitional support when the land is needed for an infrastructure project.

In some cases, assistance for vulnerable groups can be provided in the form of a specific allowance. Where this is provided in the resettlement framework, resettlement plan or livelihood restoration plan, such assistance will be included in the entitlement matrix.

Table 2: Overview of compensation and resettlement/livelihood restoration entitlements for the three categories of project-affected persons

	Impact	i. Formal rights holders	ii. Holders of recognisable rights	iii. Informal users ²³
1	Physical displacement			
11	Land	Land-for-land compensation or compensation at full replacement cost	Provide support with legal recognition of rights and, once rights are recognised, land-for-land compensation or compensation at full replacement cost	ESR 5 does not require land compensation for informal users. However, livelihood restoration measures are still required to address income/livelihood losses under ESR 5. For example, in land-based economies, facilitation of access to alternative/replacement land should be considered as a livelihood restoration measure where possible.
12	Crops and trees	Compensation at full replacement cost	Compensation at full replacement cost	Compensation at full replacement cost
13	Residential buildings	Replacement and resettlement assistance or cash compensation at full replacement cost and resettlement assistance	Provide support with legal recognition of rights and, once rights are recognised, provide cash compensation at full replacement cost or a replacement building as well as resettlement assistance	Compensation at full replacement cost of structures and/or resettlement assistance to allow relocation to adequate housing (not necessarily in full ownership but with some degree of security of tenure, such as social housing with a long-term lease). This may apply to occupants and tenants, whether formal or informal. Formal or informal tenants can also be addressed by a relocation allowance sufficient to allow them to pay the deposit required to secure a new rented dwelling (typically three to six months of rent), unless they are formal tenants already adequately addressed in legislation and tenancy agreements (for example, with an adequate notice period).
14	Non-residential buildings	Replacement or compensation at full replacement cost	Provide support with legal recognition of rights and, once rights are recognised, replacement or compensation at full replacement cost and resettlement assistance	Replacement or compensation at full replacement cost as well as resettlement assistance

²³ See details in Section 3.6.3.

	Impact	i. Formal rights holders	ii. Holders of recognisable rights	iii. Informal users ²³
2	Economic displacement			
21	Agricultural land	Land-for-land compensation or compensation at full replacement cost, and livelihood restoration assistance	Provide support with legal recognition of rights and, once rights are recognised, land-for-land compensation or compensation at full replacement cost, as well as livelihood restoration assistance	No compensation for land, however facilitation of access to replacement land should be offered as a livelihood restoration measure, along with livelihood restoration assistance
22	Crops and trees	Compensation at full replacement cost	Compensation at full replacement cost	Compensation at full replacement cost
23	Structures	Replacement or compensation at full replacement cost	Provide support with legal recognition of rights and, once rights are recognised, replacement or compensation at full replacement cost	Replacement or compensation at full replacement cost for those non-residential structures that are in full ownership of informal users of land
24	Enterprises	Replacement or cash compensation of structures and business re-establishment assistance	Replacement or cash compensation of structures and business re-establishment assistance	Replacement or cash compensation of structures and business re-establishment assistance
25	Business employees	Compensation of termination or suspension of employment in line with ESR 2 <i>or</i> compensation of lost income during the period required to re-establish the business <i>and/or</i> livelihood restoration assistance if the business cannot be re-established	If viable, provide support with legal recognition of rights and, once rights are recognised, compensation of lost income <i>and/or</i> livelihood restoration assistance if the business cannot be re-established	Targeted assistance covering lost income during the period required to re-establish the business. Livelihood restoration assistance if the business cannot be re-established

	Impact	i. Formal rights holders	ii. Holders of recognisable rights	iii. Informal users ²³
3	Community assets			
31	Communal land (for example, grazing commons, forest and lakes)	Cash or in-kind compensation (for example, community infrastructure) or provision of access to similar land in a different location		
32	Community amenities such as schools and health facilities	Reconstruction as new in line with applicable standards of the relevant authority		
33	Places of culture	Reconstruction as new or true-to-the-original reconstruction if the building had historical or patrimonial value – to be negotiated with relevant communities and authorities		
34	Graves and graveyards	Relocation in accordance with the outcomes of consultation and applicable sanitary and architectural rules		

3.6.3. PAPs in category (ii) – holders of recognisable rights

In projects that affect persons of the second category outlined in Section 3.6.1 and ESR 5, paragraph 31, clients have to provide free-of-charge legal support to PAPs to regularise their ownership rights so that they can receive compensation in line with category (ii) entitlements. This could entail:

- Registering or re-registering ownership rights and issuing related title documentation.
- Regularising inheritance, marriages and divorces, transactions or servitudes.
- Regularising or updating building permits and any missing permits or certificates that local legislation may require.

Projects should make legal services (qualified lawyers or notaries and paralegals) available to PAPs to support them in preparing documents and applying to relevant agencies, and should monitor the process.

Payment of fees associated with legal support should be provided. However, payment of tax arrears, levies, duty and stamp rights and so on due by PAPs as a result of the regularisation process do not have to be covered under project costs (although it may be good practice in many cases and substantially expedite the process). Payment of taxes directly related to the land acquisition transaction is an obligation for clients.

3.6.4. Informal users of category (iii)

3.6.4.1. Background

Many projects face challenges involving informal settlers or land users occupying public land – and occasionally private land – without legal tenure. In the EBRD countries of operation, this can include a range of cases, such as people living on non-developable public land due to a lack of alternatives, informal stalls or kiosks along roadsides, and dwellings located in flood-prone areas or within safety zones around hazardous industrial sites (areas that are officially meant to remain unoccupied).

Such informal use is often longstanding and generally tolerated by local authorities, partly because these activities support livelihoods and contribute to local economies. In some cases, state-owned utilities even supply water or electricity to these areas, reinforcing the perception of official tolerance.

Informal settlers, including slum residents and street vendors, may be undocumented migrants who are especially vulnerable to forced eviction and often unable or unwilling to seek legal redress.

When dealing with informal occupants, clients must be aware that the EBRD prohibits forced evictions, as outlined in Section 3.1.4.

3.6.4.2. Eligibility of informal users under ESR 5

Informal users fall under category (iii) of ESR 5, paragraph 31. The EBRD does not require the compensation of informal users for land and assets that they do not own. However, the Bank mandates compensation for any assets held in ownership by informal users on the land they occupy, such as structures (whether residential or not), business equipment, irrigation or drainage structures, trees and crops. The EBRD also mandates resettlement assistance for all physically displaced groups, including informal users. Such assistance will not necessarily involve access to a replacement dwelling with full property ownership and could include facilitating access to one of the following options:

- Municipal or state social housing under an affordable rental arrangement, as long as the “adequate housing” criterion is met (see Section 3.20.4) and there is reasonable security of tenure (for example, a lease over several years).
- Privately held rental housing.
- A land plot with security of tenure where physically displaced households could self-build a residential house with project assistance, including accessing affordable financing mechanisms.

In many of the EBRD’s countries of operation, herders often use state, municipal or community land on an informal basis for grazing, based on customary practices. While this use is generally tolerated, it is rarely formalised through leases or legal agreements. As only governments typically have the authority to recognise or formalise rights to such land, the role of the client in these situations must be carefully considered.

Where the project results in the acquisition or restriction of access to land previously used informally by herders, the client is expected to:

- Identify and assess the potential impacts on customary grazing practices as part of the land acquisition or access planning process.
- Engage with relevant government or local authorities to explore options for maintaining herders’ access to similar grazing land, ideally in a comparable and accessible location.
- Where feasible and appropriate, facilitate continued access to the acquired land (for example, through shared-use agreements or easements) if this does not compromise project operations or safety.
- Coordinate with the government and/or local authorities to explore opportunities for formalisation or recognition of customary grazing rights, if this is legally and institutionally possible.

Ultimately, responsibility for the legal recognition of rights rests with the government. However, where the land is acquired by the project and customary or informal use is affected, the client is expected to take reasonable and proactive steps – in coordination with local authorities – to mitigate adverse impacts and preserve livelihoods, where feasible. In addition, the EBRD mandates livelihood restoration for economically displaced informal users based on principles like those applying to registered owners. Livelihood restoration requirements also apply to informal users of natural resources, such as: herders grazing animals on state-owned, municipal or community-held meadows; gatherers of berries, mushrooms and fuelwood in public forests; and hunters and fishermen using continental or maritime water bodies on an informal basis, as long as such fishing activities are not illegal (see Section 3.6.4.3) or environmentally harmful.

The client is not required to compensate or assist opportunistic settlers who encroach on the project area after the cut-off date, if this cut-off date meets the conditions of ESR 5, paragraph 28.

3.6.4.3. Illegal activities

Projects may affect illegal activities such as the cultivation of plants used for the preparation of narcotics, or illegal fishing or hunting of prohibited species or in protected areas. The EBRD does not expect compensation to be made for such illegal activities, nor does it support efforts to restore or replicate illegal livelihoods.

Where the livelihoods of project-affected persons are based on illegal activities, the EBRD expects livelihood restoration measures to promote a transition to legal alternatives, where feasible, using a risk-based

approach that acknowledges the inherent complexities of such cases. Planning should be handled sensitively and may require specialist assessments – potentially including security assessments – as well as close coordination and negotiation with relevant government and non-governmental entities involved in such programmes.

3.6.5. Timing of payments

Compensation will be provided prior to the project's impact upon people, for example before physical displacement or the imposition of access restrictions on land or assets, in line with ESR 5, paragraph 36. This is a fundamental principle that is enshrined in the constitutions of many countries ("fair and prior compensation"). Resettlement plans must substantiate the mechanisms that are put in place, resulting in transparency and reliability, including in government-led land acquisition. Exceptions to this principle may be acceptable (subject to EBRD review and approval) in the following cases only, to be detailed in resettlement plans:

- Where certain legal difficulties are experienced (such as absentee landowner, succession issues, ownership dispute before court), as long as due process has been followed under the control of a judge, notary or similar officer, and the compensation monies are deposited into a dedicated escrow account (preferably remaining under the control of an independent party such as a judge or notary), with a proven mechanism to effect payment immediately upon resolution of the legal problem.
- Where a payment in instalments can mitigate the risks of cash misuse, and subject to such payment being explicitly consulted upon with the community and formally accepted by each recipient in a specific agreement that clearly indicates the timing and amounts of instalments.

"Prior to the impact" means prior to the time that people become unable to access their land, either due to the commencement of project construction or the formal transfer of land rights. In the case of agricultural land, it is advisable – where feasible – to consider agricultural cycles when planning land entry in order to minimise impacts to livelihoods (for example, allowing time for crops to be harvested).

3.6.6. Cash versus in-kind compensation

Extensive resettlement research has documented multiple examples of cash compensation failing to achieve policy objectives. The reasons for this have included recipients being unprepared to manage relatively large amounts of cash, which can lead to misallocation or misuse of funds, often to the detriment of vulnerable household members, particularly women and children. In line with international good practice, the EBRD supports the use of in-kind compensation wherever feasible. This includes the provision of adequate housing for physically displaced people and the replacement of productive assets – particularly agricultural land – for those who are economically displaced.

For physically displaced people, clients are expected to engage in meaningful consultation with relevant stakeholders, including PAPs, to identify suitable and reasonably attractive resettlement solutions.²⁴ This may include the construction of new houses or purchase of existing properties as an alternative to cash compensation (see also Section 3.20.2).

²⁴ Meaning: in proper locations, built according to proper design and standards, meeting adequate housing criteria and meeting the expectations of the PAPs.

Where the livelihoods of displaced persons are land-based or where land is collectively owned, the client is expected to offer land-based compensation, unless proven unfeasible or unacceptable to PAPs. There are legal and practical obstacles that make land replacement more challenging than cash compensation and it is often observed that projects would claim this is unfeasible or unacceptable to accepted persons. The EBRD requires that any such claims be fully substantiated. Where land-for-land options are unfeasible due to scarcity of land, or if project-affected people do not reasonably accept such options, the client will provide a clear demonstration of this in the resettlement plan, including a justification that livelihoods will not be affected by not providing replacement land and taking into consideration the specific needs of women and vulnerable households.

It is recommended that clients maintain records of evidence such as consultation minutes with PAPs demonstrating the involvement of women and other vulnerable groups.

The Bank may also require the results of a land availability study carried out by an independent party (as part of the resettlement plan) to assess whether replacement land is available.

In interpreting “land-based livelihoods”, it is important to recognise that in many EBRD countries of operation, so-called “backyard agriculture” and other forms of small-scale agriculture (including keeping some livestock) can be critical to the livelihoods of poorer people, particularly elderly pensioners living on small pensions, even in suburban or urban areas. The livelihoods of poorer people are often multidimensional, and affecting just one stream – as small as it may appear – can durably jeopardise their overall livelihood. People whose primary activity is not agriculture may still depend on land to such an extent that depriving them of this land could aggravate poverty. Dependency on small-scale agriculture should therefore not be neglected when determining eligibility and entitlements during the resettlement planning process.

Where land is owned by a group of co-owners (typically inheritors of the original owner), with one or several of the co-owners actually using the land, the flaw of cash compensation is that the actual user will receive only a small fraction of the compensation, resulting in them being unable to purchase alternative land and their livelihoods being jeopardised. As mentioned in ESR 5, paragraph 37, the EBRD requires land-for-land compensation in such cases. This may also apply to land owned by communities (for example communal pastureland), for which in-kind compensation is preferable.

Cash and in-kind compensation are not mutually exclusive; combinations of in-kind and in-cash compensation can provide effective solutions that meet both the need for a safety net (a house and/or agricultural land) and allow the households to satisfy some basic needs or pay back old debts.

3.6.7. Expropriation process

Where landowners reject negotiated compensation offers and the project has to resort to expropriation, this typically raises the following issues:

- The judiciary process may be complex and lengthy, potentially resulting in the state seeking “urgent entry into land” as a first step within the expropriation process. In some jurisdictions, land can be entered into based on an “urgent entry” judge ruling, with payment delayed to a later stage. This can result, for example, in farmers being deprived of their livelihoods with no immediate compensation.
- The expropriation process could result in lower compensation to the affected landowner than what was initially proposed in the negotiated process.

- Expropriation may result in significant legal costs to the affected landowner and/or the project.
- Expropriation may result in eviction if the landowner consistently refuses to leave, in which case the provisions of Section 3.1.4 would apply.

In situations where affected persons reject compensation offers that meet the requirements of ESR 5, and where this leads to the initiation of expropriation or other legal procedures, the client is expected to make reasonable efforts to cooperate with the responsible government authorities to achieve outcomes aligned with the ESR 5 requirements in line with the ESR 5, paragraphs 39-40. This includes:

- Ensuring compensation is provided at full replacement cost.
- Supporting provision of resettlement assistance where applicable.
- Facilitating access to livelihood restoration or improvement measures.

While the EBRD recognises that clients may have limited influence over the actions of state agencies or judicial bodies once formal expropriation processes begin, clients are nonetheless expected to engage proactively with the relevant authorities to promote fair and equitable outcomes for affected persons in line with ESR 5. The roles and responsibilities between private-sector clients and state institutions shall be discussed and clearly defined in the RP prior to the land acquisition process (see also private-sector clients' responsibilities under government-led resettlement in Section 3.18).

Projects are expected to take the following steps in cases of expropriation, in accordance with international best practice:

- Affected people should be adequately informed about the expropriation process and its potential implications. This includes clear communication regarding possible delays in receiving compensation, the likelihood that court-determined compensation (indemnity) may be lower or higher than the initially offered amount, and the available mechanisms for recourse and grievance.
- Affected people must be informed with an adequate notice period of the project's intention to resort to expropriation and such notices must be documented as they can be required by the EBRD for auditing purposes.
- Projects should maintain ongoing engagement with affected landowners throughout the expropriation process.
- Affected persons must have access to both the project's grievance mechanism and any judicial appeal processes available under national law.
- Wherever legally permitted – which is the case in many jurisdictions – affected landowners shall have the option to pause or suspend the expropriation process at any stage before the final ruling and pursue an out-of-court negotiated settlement.
- If the finally awarded indemnity (compensation amount) is lower than the full replacement cost, the project should consider supplementing (“topping up”) the amount to ensure affected landowners receive full replacement cost or the agreed negotiated compensation rates.
- Compensation shall be made into interest-earning bank accounts of the landowners.
- The cost of expropriation should be covered by projects where expropriation has to be triggered for technical reasons (for example, with absentee landowners that cannot be contacted).

- Persons involved in expropriation processes must be protected from any form of retaliation. In particular, their rights to participate in livelihood restoration activities and to access other non-compensation-related project benefits must be fully safeguarded, regardless of their legal actions or positions in the process.
- EBRD requirements related to the prohibition of forced evictions apply to persons in an expropriation process.
- RPs should precisely describe expropriation processes, the conditions that would trigger expropriation, and address all points mentioned above.

Urgent expropriation processes should be considered only as a last resort and adequate justification should be provided to demonstrate that this step is unavoidable from a project scheduling perspective. This justification should be documented either within the RP or through a specific notification to the EBRD prior to the implementation of any urgent expropriation.

Urgent expropriation can start only after the Bank has considered the circumstances and formally agreed to such action. Regardless of the urgent expropriation, the client will maintain the normal processes of consultation, identification of landowners and other right holders, negotiation with all landowners and grievance management. Compensation at replacement cost will be paid prior to impact, unless landowners challenge a reasonable offer or are absent, in which case the provisional compensation amount will be deposited into an escrow account.

3.6.8. Voluntary land donations

The acceptable way to acquire land is to provide compensation for it in kind or in cash. Voluntary land donations are not a typical way for projects to acquire land, and are acceptable only as an exception where all conditions mentioned in ESR 5, paragraph 45, are met, as follows:

- The potential donor or donors have been appropriately informed and consulted about the project and the choices available to them.
- The potential donor or donors have confirmed their willingness in writing.
- No coercion, intimidation or bribery has been used.
- The amount of land being donated will not reduce the donor's current livelihood levels and the land donation entails no residual livelihood impact.
- No household relocation is involved.
- The donors are expected to benefit directly from the project.
- For community or collective land, donation can only occur with the consent of individuals using or occupying the land.
- The client will maintain a transparent record of all consultations and agreements reached.

Any prospective land donation in an EBRD project shall be submitted to the Bank for prior review and written approval. Donations sought by contractors or subcontractors are covered by ESR 5 and the conditions above apply.

Any voluntary land donation not meeting the criteria set out in ESR 5, paragraph 45, would not be compliant with the requirements of ESR 5.

3.6.9. Compensation for community resources

In many of the EBRD's countries of operation, natural resources are effectively held in collective ownership by communities, either formally or informally. Examples include high-mountain pastureland in the Caucasus, so-called "collective land" in Morocco, and forest or grazing areas managed at community level in parts of sub-Saharan Africa.

Although such land may be formally registered in the name of the state or a municipal authority, local communities often possess longstanding, well-recognised usage rights. In some cases, these rights may also be formally recognised as ownership or usage rights under national legislation (for example, laws on customary lands, pasturelands), as detailed in ESR 5, paragraph 76.

In such cases, the following steps should be taken:

- Develop an understanding of national legal requirements (some countries have a prescribed process for acquisition and compensation of such land).
- Pay compensation for the land to the legal owner (in most cases common land is formally owned by the state or local authorities); however, in accordance with the requirements of ESR 5, the client is also expected to identify informal or customary users of the land and ensure that any loss of access or livelihood is appropriately assessed and compensated.
- Value losses related to communal lands, which can be challenging, particularly in contexts where there are no comparable land transactions or established market values. In such cases, alternative valuation methods – such as land productivity, community use value or replacement cost approaches – should be considered to ensure fair and equitable compensation.
- Consult the community on their compensation and livelihood restoration preference,²⁵ prioritising wherever possible modes of compensation that will offset impacts to livelihoods and strengthen community governance,²⁶ rather than simply paying cash to a village budget or sharing cash between users.
- Consult direct users (who may be different from the owners, for example nomadic or transhumant herders using community land in a certain area), particularly in view of access to alternative resources and livelihood restoration if there is a substantiated impact to their livelihoods.
- Reach a negotiated settlement in line with Section 3.1.5 of this guidance note, including the associated formalisation and documentation requirements.

3.7. Impacts on Indigenous Peoples

Where a project affects Indigenous Peoples (as defined in ESR 7), physical displacement and impacts to customary lands and resources are two of the three circumstances that trigger the obligation of FPIC. The "collective attachment" of Indigenous Peoples to their lands and resources quite often constitutes a unique way of viewing life itself. Retaining the integrity of their habitat and avoiding impacts is therefore of central concern in any project that affects these groups. In such circumstances, it is critical that the ESIA captures

²⁵ If there are impacts to livelihoods.

²⁶ Examples include community projects such as repairing a school or water system, livelihood projects such as improving the reach of veterinary services to affected communities, supporting rational management of pastureland to avoid overgrazing and improving the quality of other pasturelands.

the details of land use and the land tenure system, ensuring that communally held lands under use are included in the assessment of project impacts and risks and that efforts are made to avoid or minimise lands used by the project.

If impacts to customary lands and resources are unavoidable, the client must obtain the FPIC of affected Indigenous Peoples in line with ESR 7. In addition, any impacts to lands and resources resulting in physical or economic displacement must be managed in accordance with the requirements of ESR 5. It is also advisable for clients to obtain the services of qualified specialists to conduct studies of land use and land tenure systems.

ESR 7, paragraph 19, emphasises that avoiding relocation is the top priority for project planning – a principle that is also fundamental to ESR 5. As with loss of lands and resources, the issue of relocation is fraught with danger as, regardless of the goodwill and compensation involved, resettlement almost unavoidably results in negative social, economic and cultural impacts on Indigenous Peoples. Many Indigenous Peoples feel a sense of “collective attachment” to land, and when physical displacement is unavoidable, clients need to obtain the FPIC of the affected Indigenous People and work collaboratively with them to plan resettlement in accordance with their needs and wishes, in line with the requirements of ESR 5.

3.8. Post-conflict situations

Resettlement in post-conflict settings is highly complex and requires careful planning and implementation. Common challenges include the presence of internally displaced persons (IDPs), unclear or destroyed land records, weak governance, social instability and competing or overlapping land claims. Vulnerable groups including women, children, minorities, IDPs and refugees face heightened risks such as gender-based violence. Safety hazards (such as unexploded ordnance) and security concerns for affected communities and resettlement teams can further complicate the process. In addition, unequal compensation or recognition of land claims may reignite conflict, while resistance from authorities and multiple ownership claims can hinder resettlement planning and implementation.

Key aspects to consider in post-conflict situations, in line with good international practice, are:²⁷

- Scoping:
 - Engage experienced experts to analyse conflict and its impact on intercommunity relations, land tenure and security, especially where IDPs or refugees are present. Assess land registry status, government policies on displaced people, property compensation and the judiciary's role in disputes.
 - Evaluate socioeconomic vulnerabilities, livelihood challenges, risks of violence and existing support programmes.
 - Consider how conflict affects community governance and family structures.
- Planning:
 - Where needed, engage an unexploded ordnance (UXO) specialist to conduct a thorough hazard assessment of all lands involved in the project, including areas designated for resettlement and agricultural livelihood replacement.

²⁷ The following text is aligned with good international practice, including IFC (2023), Good Practice Handbook: Land Acquisition and Involuntary Resettlement.

- Allocate sufficient budget and time in the project schedule for UXO clearance to ensure safety for communities and staff.
- Inclusive and transparent stakeholder engagement:
 - Design stakeholder engagement processes that prioritise clear information dissemination, inclusiveness and transparency, incorporating insights from conflict analysis.
 - Ensure the engagement team represents diverse ethnic, political and tribal groups relevant to the area.
 - Establish grievance and dispute resolution mechanisms that are independent, impartial and trusted by affected persons to address concerns fairly and effectively.
- Baseline data and land ownership validation:
 - Conduct careful reconstruction of land and property ownership records, giving special attention to verifying the legitimacy of claims.
 - Provide additional support – such as legal assistance, counselling and psychological services – to vulnerable groups to enable their full participation in resettlement consultations and surveys.
- Implementation:
 - Build additional time into project schedules for resolving land ownership disputes, validating claims and completing UXO clearance.
 - Recognise that these processes may require more time than usual, so as to result in thoroughness and legitimacy.
- Livelihood restoration:
 - Allow extended timelines for livelihood restoration activities, especially agricultural programmes.
 - Account for the complexities of land tenure and the risk of further evictions in these plans to ensure sustainable restoration of livelihoods.
- Ongoing monitoring and support:
 - Monitor resettlement and livelihood restoration processes rigorously, following established frameworks such as RPs or livelihood restoration plans (LRPs).
 - Ensure monitoring timelines are sufficient to capture long-term impacts, particularly focusing on vulnerable populations to prevent or address ongoing hardship.

3.9. Community facilities, utilities and public amenities

Project resettlement may affect institutions and services including schools, health centres, markets, administrative buildings and associated services, water and power supplies, sanitation facilities, community centres, central heating facilities and networks, as outlined in ESR 5, paragraph 46.

The EBRD mandates that where these assets are impacted, replacement to a similar or better level of service or equipment be provided. This does not necessarily mean that a new facility has to be built; replacement of the service could be made through the enhancement of existing equipment (for example, adding classes to an existing school or expanding an existing water or heating network). This requires engagement with the relevant agency or community, so that service reinstatement principles and designs are agreed upon and staff are appointed or reappointed in time as necessary. Where a new system has to be built, this new

equipment should meet applicable standards (such as for drinking water quality or energy efficiency). Costs should also be assessed to ensure that the new facilities are affordable and sustainable. Where necessary, specific provisions for vulnerable groups will need to be devised so that they can access the service.

3.10. Cultural heritage, graves and cemeteries

Where a project may significantly impact cemeteries or isolated graves, priority will be given to avoiding such impacts as these sites can be material to the cultural, ceremonial or spiritual identity of PAPs. Resettlement of cemeteries or isolated graves can also be very difficult to implement from a technical, sanitary and engagement perspective. Where significant impacts are unavoidable, the client will meet the requirements of national legislation and ESR 8 during resettlement of these assets and apply the guidance included in this section.²⁸

The RP should outline all measures that the project will implement to avoid, protect, relocate (where feasible) and minimise adverse impacts on graves or cemeteries. Where relocation is unavoidable, appropriate compensation and relocation measures must be considered, and the following steps will be followed in line with good international practice:

- Conduct surveys and mapping of affected sites to identify the number, location and condition of graves and to inform planning and consultation processes.
- Engage with the affected community on the acceptability of disturbing and relocating graves.
- Seek the community's views on appropriate relocation sites, necessary cultural or religious precautions and ceremonial practices. (In some cases, based on religious beliefs or customs, communities may prefer that graves remain undisturbed, even if they will be permanently impacted.)
- Review all relevant national and local regulations – including permitting and public health (sanitary) requirements – related to the transfer of human remains.
- Engage qualified experts such as cultural and health specialists and accredited contractors experienced in such procedures.
- Identify and consult next of kin and obtain their consent where required (many jurisdictions have specific legal requirements concerning consent and notification of family members).
- Consult with appropriate religious authorities to ensure that all rites, rituals and cultural protocols associated with the relocation are properly observed.
- Select and prepare new burial sites in accordance with applicable sanitary and spatial planning regulations and in consultation with affected families and host communities.

Planning for grave relocation should involve appropriate specialist input – such as from anthropologists, religious leaders or qualified undertakers – to ensure that social, cultural and religious considerations are respected. The actual relocation should be undertaken by a trusted local undertaker or a specialist company experienced in the exhumation, handling and reinterment of human remains.

3.11. Restrictions, easements

Restrictions can be temporary or permanent. Examples include:

²⁸ The guidance is aligned with good international practice, including IFC (2023).

- Temporary restrictions (as outlined in ESR 5, paragraphs 42-43):
 - Land has to be occupied for certain construction works and is reinstated and handed back when construction is complete.
 - Irrigation networks are interrupted during construction works, thereby preventing or reducing agricultural production.
 - Residents have to be temporarily evacuated from their residences due to hazardous works in the vicinity, such as blasting or tunnelling.
- Permanent restrictions:
 - Certain activities become prohibited in a sanitary protection zone around a facility (for example, no human residence or no grazing of animals).
 - Noise exceedances or safety hazards require displacement of residences.

Land that was constructible becomes non-constructible in a certain perimeter around an industrial facility.

The following principles apply:

- Temporary occupation of land for construction purposes, with land handed back to landowners or land users at the end of construction:
 - There will typically be no acquisition and no transfer of ownership.
 - Land occupation is compensated in the form of a rent for as long as the occupation lasts.
 - The rental value should reflect market conditions or any available local benchmarks.
 - Land should be handed back after proper reinstatement and in the same condition as it was found upon commencement of occupation by the project. Reinstatement can be complex in certain types of soil, and where the initial productivity cannot be fully reinstated, compensation should be paid on the income losses suffered.
 - It is good practice to sign a land entry protocol with the landowner or land user before occupation starts. A land exit protocol can also be signed when occupation ends, sanctioning that the landowner or land user is satisfied with the condition of the land upon its return.
 - The transaction should be documented in an agreement, compensation (rental) values should be consulted upon, and landowners and land users should be properly informed of their rights through a guide to land acquisition and compensation (GLAC) or similar tool (see Section 3.15.2).
 - A grievance mechanism must be put in place in line with Section 3.15.3.
 - The impacts of temporary restrictions should be addressed in the RP.
 - If a construction contractor is involved in temporary occupation transactions, the client remains responsible for ESR 5 compliance and should monitor and keep control of contractor activities.
- Temporary restrictions to access:
 - Where a loss is experienced as a result of these restrictions, these losses should be valued and compensated (for example, loss of access to businesses due to parking space occupation for public works, interruption of irrigation networks) in consultation with affected people and local authorities.
 - Affected people should be informed beforehand, including of the possibility to lodge grievances for impacts that may go unnoticed by the project.

- Similarly, clients will be deemed responsible for these activities and should control their contractors in this regard.
- Permanent restrictions:
 - Any restriction that entails a loss or potential loss to affected landowners or land users must be compensated. This is the case for projects such as transmission line corridors, where permanent restrictions will be imposed on building or tree height under the conductors.
 - Valuation should consider the extent of the loss in the context of the land use that the affected plot is designated for in accordance with spatial planning categorisation or in line with practice in the absence of spatial plans. For instance, the impact of a restriction on buildings is not the same in a suburban area (where land is potentially constructible), in an orchard area (where restrictions on tree height may have a significant impact on agriculture) and in a remote mountain pasture area, where land users will be able to continue normal use of their land.
 - The extent of the loss may vary from zero or negligible (for example, a transmission line or pipeline in pastureland where restrictions will have no or limited impact) to 75 per cent or even 90 per cent in the case of restrictions on buildings.
 - Compensation can be paid as a one-off or in yearly instalments.
 - Permanent restrictions must be registered on the land title in accordance with applicable regulations.

3.12. Associated facilities

Associated facilities are facilities or activities that are not financed by the EBRD as part of the project but which, in the view of the Bank, are significant in determining the success of the project or in producing agreed outcomes. These are new facilities or activities: (i) without which the project would not be viable; and (ii) that would not be planned, constructed, expanded or carried out if the project did not exist.²⁹

Typical examples include:

- Access roads constructed independently by the state or a municipality to serve for an airport, port or a plant developed as a public-private partnership (PPP) project.
- Transmission lines and/or substations built separately by a transmission utility to export power generated by a renewable energy plant developed by a private company.

The duty of an EBRD client regarding associated facilities is defined in the ESP, paragraph 6.5, ESR 1, paragraph 6, and ESR 5, paragraph 44, as follows:

- Identify risks and impacts of associated facilities.
- Ensure that social risks and impacts arising from associated facilities over which the client has control or influence are managed and mitigated in accordance with applicable law, good international practice and the objectives of the ESRs.
- If associated facilities cannot be structured to meet the requirements of the ESRs, the client is required to demonstrate the extent to which it cannot exercise control or influence over associated facilities.

²⁹ EBRD (2024a), p. 6.

In regard to land acquisition, resettlement and livelihood restoration, the following table provides an approach to each of the three requirements above:

Table 3: Approach to land acquisition in associated facilities

Requirement	Practical approach to the requirement	Responsibility
Identify risks and impacts of associated facilities as part of the ESIA and resettlement planning process	<p>Client to liaise with agency or sponsor in charge of associated facility:</p> <ul style="list-style-type: none"> to obtain project design and footprint and assess significance of the facility or activity for the project to assess willingness to meet international resettlement standards to assess whether any financial institution applying E&S policies similar to the EBRD's is involved. <p>Visit site or route of associated facility and identify magnitude of physical and economic displacement impacts.</p> <p>Assess potential for cumulative impacts with project.</p> <p>Check on any plans by agency or sponsor in charge of associated facility to manage and mitigate risks and impacts, including, as appropriate, the respective roles and responsibilities.</p> <p>Reflect risk and impact assessment including key potential limitations to achieving objectives of ESR 5 in RP or LRP.</p>	EBRD client
Seek influence over management and mitigation of risks and impacts at associated facility	<p>Engage agency or sponsor in charge of associated facility on benefits and business case of management and mitigation of risks and impacts (commercial, financial, reputational, social, environmental).</p> <p>Document engagement and outcomes.</p>	EBRD client
If engagement above is successful, seek to get the relevant agency to meet the objective of ESR 5 for the associated facility	<p>Prioritise the following measures:</p> <ul style="list-style-type: none"> compensation as close as possible to replacement cost livelihood restoration grievance mechanism identification of and support for vulnerable people. <p>Reflect in RP or LRP.</p>	EBRD client
If engagement above is not successful, demonstrate lack of control over management of risks and impacts at associated facility	<p>Document engagement with the relevant agency; exchange of letters with relevant agency on compliance with international resettlement standards can provide the required demonstration.</p>	EBRD client

3.13. Orphan land

Orphan land refers to land that does not fall within the project's direct footprint but becomes unusable, unviable or inaccessible for its intended use as a result of partial land acquisition or the acquisition of plots nearby. This is common in linear projects and may apply in cases such as:

- Agricultural land plots that are partially acquired, but the remainder of which become too small or inconvenient to viably farm.³⁰

³⁰ This may include situations where the remaining land has an irregular shape that does not allow farming equipment to turn around.

- Agricultural land plots that are severed from the irrigation, drainage or access road network because of land acquisition nearby or the linear obstacle created by the project.
- Residential land plots that could become too small, or where the house becomes too close to infrastructure and is affected by environmental impacts such as noise or vibration from construction or operations.

In such situations, the client should consider the options provided in national law and offer to acquire the entire land parcel, as detailed in ESR 5, paragraph 33. If there is a dispute in relation to the residential or economic viability or use of the remaining plot of land or asset, the client should engage an independent third-party valuer or agricultural expert to provide an independent opinion to address the impact.

If the land plot is not considered for full acquisition, the market value of the remainder may decrease significantly, and this should be considered in the valuation of the affected part.

Generally, the RP should identify these situations, categorise them, define eligibility criteria³¹ and include relevant entitlements in the entitlement matrix. The grievance mechanism should accommodate the consideration of orphan land, and in linear projects it may be adequate to launch a specific grievance management exercise at the end of the land acquisition process to identify and address these situations.

3.14. Cumulative impacts

Landowners or land users may experience cumulative impacts arising from multiple projects in the same region, whether these projects are related or not, as noted in ESR 5, paragraph 24. The cumulative risks and impacts of, and to, the project, in combination with the risks and impacts of other relevant past, present and reasonably foreseeable developments may result in additional vulnerabilities and should be identified and managed in accordance with ESR 1. This includes land and livelihood impacts. For example, a landowner may be impacted initially by land acquisition for a hydropower facility and subsequently by a transmission line developed, typically as an associated project by a third party, to transmit power from the project. Similarly, the development of multiple linear infrastructure projects (such as pipelines, roads or transmission lines) in adjacent corridors can result in significant land fragmentation, rendering remaining plots unsuitable for productive use, including agriculture (see Section 3.13). Another example includes fishing communities that may be repeatedly affected by several offshore wind developments in nearby marine areas, compounding the disruption to their livelihoods. Clients are expected to consider and assess such cumulative impacts during project planning, the ESIA process and stakeholder engagement, and to implement appropriate mitigation measures where needed.

Cumulative impacts should be systematically assessed and addressed across various components of land acquisition and resettlement planning, as outlined below:

- Socioeconomic surveys: assess both past and potential future impacts on livelihoods resulting from previous and upcoming land acquisition activities in the same area. This includes understanding how multiple interventions may have collectively affected the same households.

³¹ For example: any remainder smaller than X m² can be acquired if the landowner applies for such acquisition; any remainder assessed by an agricultural expert as unsuitable for agricultural equipment can be acquired upon application.

- Asset inventories: where possible, qualitatively identify previous impacts on landholdings for each affected landowner and consider the potential future impacts of associated or nearby projects once their footprints are known.
- Vulnerability assessment: individuals or households affected by multiple land acquisition processes should be considered vulnerable or potentially vulnerable. As such, they may be eligible for additional support measures typically provided to vulnerable groups.
- Livelihood restoration entitlements: design and size livelihood restoration measures to reflect the full extent of cumulative impacts on affected landholdings, ensuring that livelihood supports are adequate and proportionate.
- Monitoring and evaluation: pay specific attention during monitoring to the potential for cumulative impacts to increase household vulnerability over time. Targeted follow-up may be required to ensure effective mitigation.

3.15. Stakeholder engagement and grievance management

3.15.1. Stakeholder engagement

Stakeholder engagement is central to land acquisition and resettlement scoping, planning and implementation, as stated in ESR 5, paragraphs 47-50. ESR 10 requirements are applicable to engagement undertaken for land acquisition and resettlement. Any RP submitted to the EBRD must include the following:

- A clear and detailed account of consultation methods, events and outcomes, and relevant documentation such as signed minutes of meetings must be kept available for potential auditing.
- A plan for further consultation in the resettlement implementation period (alternatively this can be presented in the project stakeholder engagement plan).

For sensitive resettlement activities, particularly where significant physical displacement is envisioned or if Indigenous Peoples or other vulnerable parties are affected, the EBRD may require a specific resettlement stakeholder engagement plan. This may be similar in structure to the project stakeholder engagement plan but with specific focus on consultation, negotiation processes and information disclosure related to resettlement, as experience shows that formalising engagement planning in a document is generally useful to the project.

3.15.2. Information disclosure

Requirements pertaining to the disclosure of RPs are detailed in Section 3.16.7 of this guidance note. However, RPs are often complex and bulky documents that include multiple details that may be of limited interest to PAPs. This is why the EBRD requires “simple, practical, accurate and culturally appropriate documentation meant for broad dissemination to affected persons”,³² such as a GLAC. A GLAC is not meant to replace the RP – the full disclosure of which remains necessary in line with ESR 10 requirements – but to include practical, short and user-friendly information that PAPs need to use as a guide throughout the land acquisition, compensation and (if applicable) relocation process, such as:

- key project and client information, including relevant addresses and contact details

³² See ESR 5, paragraph 49.

- summary description of project land and displacement impacts (physical, economical) with relevant numbers and clear maps
- eligibility rules
- compensation principles and processes
- legalisation processes and related project support, where applicable
- compensation rates for various types of affected assets
- survey process and cut-off date
- description of resettlement sites where applicable
- resettlement assistance measures
- livelihood restoration measures
- documents that PAPs should prepare (such as identity documents, land titles, building permits or passports)
- contact information for community representatives and/or local authorities involved in the land acquisition and resettlement process
- grievance management, relevant avenues and contact information.

The GLAC should be disseminated to all affected persons and made broadly available at administrative offices (districts, municipalities, village leaders' offices), in public libraries, on the project website and on social networks. In multilingual countries, it should be prepared in languages accessible to the people actually affected by the project, which may include the official or local language(s). The ESR 10 guidance provides detailed recommendations on meaningful consultation and disclosure requirements.

3.15.3. Grievance mechanism

3.15.3.1. Overview

The grievance mechanism for land acquisition and resettlement may be integrated into the broader project-level grievance mechanism, as required under ESR 10, or established as a standalone mechanism. Particularly for projects with significant displacement impacts – or where land acquisition is managed separately from other components, such as in private-sector projects where a government agency is responsible for land acquisition – a dedicated grievance mechanism for land acquisition and resettlement-related issues is preferable. This can offer several advantages, including greater tracking and responsiveness to land-related concerns, enhanced clarity for affected persons regarding the role of the government agency in resettlement planning and implementation, and alignment with the often-earlier timeline of land acquisition activities relative to other project phases (construction and operation).

The ESR 10 guidance note provides detailed recommendations on the design and implementation of effective grievance mechanisms.³³ All core principles outlined under ESR 10 – including accessibility, transparency and responsiveness – apply equally to grievance mechanisms established for land acquisition and resettlement (see ESR 10, paragraph 36).

³³ See EBRD (2025).

The grievance mechanism must allow for the anonymous submission of complaints and comply with applicable national data protection and privacy regulations. In addition, clients must put in place effective measures to assess, prevent and respond to retaliation risks and incidents, in line with ESR 10.

The grievance mechanism must be operational from the outset of the land acquisition and resettlement planning process – well in advance of the submission of the RP. In particular, it must be in place prior to the declaration of the cut-off date and commencement of asset surveys, which are known to generate a significant volume of grievances.

Any modifications to compensation or entitlements resulting from the grievance resolution process must be formally reflected in supplementary agreements. The amounts agreed through these processes must be made available to PAPs through escrow accounts or other appropriate financial mechanisms.

3.15.3.2. Recourse mechanism

In line with the requirements of ESR 10, ESR 5 also mandates that the grievance management system include a recourse mechanism capable of resolving disputes in an impartial and transparent manner.³⁴ This mechanism is expected to be distinct from the judicial system. While aggrieved persons must retain the right to pursue legal remedies at any stage of the grievance process – and should be clearly informed of this right – they must also be offered a non-judicial means to appeal the project's initial decision. The structure and function of such recourse mechanisms will vary depending on the local context and institutional landscape. Possible arrangements may include:

- Forming a local grievance committee that could include local authorities, municipal counsellors, representatives of PAPs (both male and female) and civil society (such as NGO representatives and/or religious leaders). Such committees can be established either at the level of each sizeable affected community or project-wide, depending on the size of the project-affected area and taking into account cultural and socio-political sensitivities (see the ESR 10 guidance note for further details).
- Using local representatives of national ombudsman services, when these are available at a reasonable distance from the project site and are able to support impartial dispute resolution.

3.15.3.3. Mediation services

For projects with significant displacement impacts, it may be appropriate to arrange for independent mediation services to be made available to aggrieved persons. These services may be provided by a qualified local mediator, such as an experienced lawyer or a civil society organisation (such as an NGO) with relevant expertise. Mediation may be initiated through the recourse mechanism described in the section above.

3.16. Resettlement planning documentation

3.16.1. Applicability of the requirement for a resettlement plan

Where ESR 5 applies (see chapter 2), the preparation of an RP is mandatory. All projects that trigger ESR 5 are required to prepare and submit an RP to the EBRD – without exception. This requirement (in line with ESR 5, paragraphs 51-53) applies regardless of the scale of displacement and may be triggered by the acquisition of a single land plot or the displacement of a single household.

³⁴ ESR (2024), paragraph 50.

However, as detailed in other sections of this guidance note, the scope, contents and preparation arrangements of the RP must be proportionate to the magnitude of impacts.

3.16.2. Contents of resettlement plan

3.16.2.1. Projects with minor land acquisition impacts

The RP can be brief and should present the following (see also Annex 10):

- extent of impacts (number of affected land plots, households and individuals) and key characteristics of affected land and other assets (structures, crops, trees, natural resources), with their location on map(s)
- eligibility criteria, cut-off date, results of asset surveys and socioeconomic surveys
- entitlements (valuation methodology, compensation rates, payment procedures)
- consultations carried out to date and key outcomes, plan for further consultations, grievance management system
- livelihood impacts and livelihood restoration and improvement measures
- monitoring (inputs, outputs, livelihoods)
- resources for implementation, roles and responsibilities, budget and implementation schedule
- annexes: lists of affected plots, lists of affected households and their characteristics, relevant maps and photographs, minutes of relevant meetings.

3.16.2.2. Projects with physical displacement or significant economic displacement

The sample structure of an RP (including situations that entail physical displacement) is presented in Annex 9.

3.16.3. Resettlement framework

As a general rule, the EBRD expects the preparation of an RP by competent experts as a prerequisite to project financing approvals. This plan should be based on a detailed impact assessment, informed by comprehensive asset and socioeconomic surveys conducted within the finalised project footprint.

However, in cases where the project footprint is not fully defined at the time of project disclosure and for compelling reasons it is not possible to complete the full RP beforehand, a resettlement framework (RF) may be acceptable as a first step, subject to the Bank's agreement during due diligence, in line with ESR 5, paragraph 54. The RF should clearly outline the compensation and entitlement principles as well as the implementation arrangements, and will be later complemented by a full RP once the footprint is confirmed and the necessary surveys have been completed.

An RF is appropriate where a project is planned in successive phases, such as:

- certain infrastructure projects (for example, toll roads or railways) or projects with multiple subcomponents where the full project footprint will be defined in phases
- transmission lines or pipelines where routing is partially defined but subject to final adjustments during detailed engineering
- large-scale mining projects where pit expansions are developed in stages

- irrigation schemes or rural infrastructure covering multiple zones or districts not yet fully mapped at the time of approval
- wind farms or solar parks planned in clusters or over a large area, where exact turbine or panel locations are determined at a later stage.

In such cases, and subject to Bank approval during due diligence, an RF may be submitted initially, with a commitment to prepare a full RP at a later stage prior to land acquisition. RP(s) must be prepared and disclosed in accordance with Section 3.16.7 once the project design is finalised.

Where an RF has been submitted previously, subsequent RP(s) may be streamlined and do not need to duplicate information already presented in the RF (such as legal frameworks or institutional arrangements). However, each RP must include comprehensive information specific to the impacts it covers, including detailed survey results and clearly defined entitlements for affected persons in the relevant area.

Planning for the submission and sequencing of resettlement documentation should be discussed in advance with relevant stakeholders, including government authorities and PAPs, to ensure coordinated expectations and compliance with applicable standards.

Disclosure requirements for RFs are the same as those for RPs (see Section 3.16.7).

The suggested structure and content of an RF is provided in Annex 11.

3.16.4. Independent preparation of resettlement plan (or framework)

For any project outside of the scope of ESR 5, paragraph 51, (i), (projects with minor land acquisition impacts), the EBRD requires that the RP be prepared by qualified independent resettlement experts. This is the case for any project involving physical displacement or where impacts to livelihoods are significant. For projects within the scope of ESR 5, paragraph 51, (i), it may be acceptable that the RP be prepared and submitted by project personnel themselves, although support from a specialist is always desirable.

3.16.5. Changes to resettlement plans

No project proceeds exactly as initially planned. Adjustments to the project footprint, timelines, applicable legislation or mitigation approaches are common.

An update or addendum to the RP may be required (see ESR 5, paragraph 53) under the following circumstances:

- Significant changes in the socioeconomic context of the affected communities, such as major macroeconomic shifts, conflict or substantial in- or out-migration.
- Prolonged project suspension, for example due to force majeure events or delays in reaching financial close beyond the anticipated timeframe.
- Material design changes resulting in significant alterations to the project footprint and/or the number of affected people since the initial RP was approved.
- As a result of monitoring and evaluation findings that indicate certain measures are not achieving the desired outcomes.

The RP and/or RF should include a dedicated section on change management, outlining the applicable procedures to be followed in the event of material changes during project implementation. This section should describe, among other elements, the additional survey requirements, processes for stakeholder engagement and assessment of new or modified impacts, documentation and disclosure procedures that will apply in the event of any changes. In most cases, the significance of such changes must be assessed in consultation with the Bank and agreed on a case-by-case basis.

Where limited incremental land acquisition is required – provided it involves no physical displacement, only minor economic displacement affecting a small number of landowners and results in no or minimal cumulative impacts – there may be no need to update the existing RP or prepare an addendum, subject to the Bank's approval. In such cases, all procedures set out in the original RP must be fully applied. These include stakeholder engagement, grievance redress, baseline data collection, compensation entitlements and provisions for livelihood restoration. The same entities responsible for implementing the original RP should oversee the additional land acquisition to ensure continuity, compliance and consistency in approach.

3.16.6. Formal endorsement of resettlement plans

The client must demonstrate commitment to the RP, including its budget and implementation arrangements. Forms that this commitment can take shall be discussed with the EBRD at the time of project review and due diligence:

- For public-sector projects: a formal order or decree issued by the relevant head of agency, minister or, in some cases, the cabinet.
- For private-sector projects (where the state is not involved in land acquisition and resettlement): a formal commitment from the project's governing body – such as a signed declaration or letter – will be sufficient.
- For private-sector projects or PPP projects where the state is involved in land acquisition and resettlement: the RP may require formal approval from the relevant level of government prior to disclosure. In such cases, it is considered good practice to hold an RP workshop with the involved government agencies to secure early alignment on entitlements, implementation arrangements and budget prior to formal approval. Depending on the country's institutional structure, this approval may be required at the ministerial or cabinet level. Documentation of such approval should be appended to the RP or communicated separately to the EBRD.

3.16.7. EBRD disclosure of resettlement planning documents

3.16.7.1. Category A projects

For Category A projects, the RP shall be publicly disclosed by the EBRD as part of, and concurrently with, the ESIA (typically the RP is one of the volumes of the ESIA), as foreseen in ESR 10 and the EBRD's *Directive on Access to Information*.³⁵ This applies to all Category A projects, including those falling under ESR 5, paragraph 51, (i), for which the RP should meet the requirements presented in Section 3.16.2.1 of this guidance note and those falling under ESR 5, paragraph 51, (ii) and (iii), for which the RP should meet the requirements presented in Section 3.16.2.2 of this guidance note.

³⁵ See EBRD (2024b).

Any confidential personal information contained in RPs or RFs will be removed from the versions meant for public disclosure. This may include items such as names of PAPs, certain photographs and information on individual income.

3.16.7.2. Category B projects

For Category B projects falling under ESR 5, paragraph 51, (ii) and (iii), the Bank may also require public disclosure of RPs if there are specific risks related to displacement in line with the EBRD's Directive on Access to Information.

3.17. Organisational capacity and commitment

3.17.1. Implementation arrangements

Land acquisition and resettlement are resource-demanding activities in terms of staff, logistics and budget. As part of its review of RPs, the EBRD will closely assess implementation and organisational arrangements, including roles and responsibilities of each party, particularly where external parties (government, contractors, land acquisition agents) are involved in implementation, proposed budget, schedules, staffing, monitoring and reporting processes, and training and capacity-building arrangements (see ESR 5, paragraphs 56-57). The land acquisition and resettlement schedule will have to be presented in the RP in a manner consistent with the overall project development schedule. Any further updates will have to be communicated to the EBRD (see also Section 3.16.5).

The RP is a commitment under a project. It will be referred to in the project's ESAP as one of the management plans against which project performance will be assessed by the EBRD as part of its project monitoring activities.

3.17.2. Budget and funding

The budget is a critical component of effective resettlement planning. Inadequate budgeting often leads to delays or implementation challenges when additional funds need to be authorised and mobilised part-way through the process. To avoid such issues, clients are encouraged to take into account the following considerations:

- Inflation during the implementation period, which may necessitate updates to compensation rates and construction costs.
- The actual cost of implementing all resettlement-related activities is frequently underestimated.
- In addition to direct compensation and resettlement expenses, budgets should also account for the cost of livelihood restoration activities, management and administrative expenses associated with planning and executing resettlement, livelihood restoration processes, internal and external monitoring and any completion audits.
- Clients are generally advised to add a contingency of at least 20 per cent to initially estimated expenditures, and a higher contingency may be warranted where there is uncertainty in asset valuation or where implementation is expected to extend beyond five years.
- When preparing the budget, clients are encouraged to use a stable currency (such as the euro) rather than local currencies that may be vulnerable to significant and unpredictable depreciation; in some jurisdictions, compensation amounts can be calculated in a stable currency and disbursed in local

currency at the prevailing exchange rate at the time of payment, in order to protect PAPs from the impacts of currency devaluation.

- Where land acquisition and resettlement activities are financed from multiple sources, the client should clearly identify the funding source for each budget component, particularly when the government is responsible for specific activities such as land acquisition and associated compensation. If public funds (for example, from state or municipal budgets) are used, the EBRD requires private clients to demonstrate that such funding is secure and authorised, with a disbursement schedule aligned to the project's timeline through direct engagement with the relevant state authority.

3.18. Government-managed land acquisition and resettlement

3.18.1. Background

Any project financed by the EBRD is required to comply with ESR 5, regardless of the organisational and financial arrangements pertaining to land acquisition and resettlement. In many jurisdictions, land acquisition for public purpose projects is a responsibility of the state, even where the project is implemented and financed by a private investor. This is the case for PPP projects. In such situations, the government will implement land acquisition according to applicable legislation. However, there may be gaps between national legislation and ESR 5, including one or several of the following:

- Acquisition of land by the state usually involves limited consultation – there will generally be prior disclosure in various forms of the state's plans but no consultation on entitlements and other aspects as required by international standards.
- Public interest and expropriation may be triggered without prior attempts to reach negotiated settlements.
- With a few exceptions, compensation for structures is at market or depreciated value rather than full replacement cost.
- Compensation for land may be at cadastral value (or similar mandatory requirements), which is generally lower than the market or full replacement cost.
- Provisions for compensation of businesses may fall short of international requirements.
- People cannot choose between several compensation options – compensation is typically in cash only, although some jurisdictions have provisions for resettlement, replacement properties or property exchange.
- Informal users are typically excluded from compensation.

Evictions may also take place with limited safeguards or due process:

- Livelihood restoration is usually not required, and livelihood or other socioeconomic baseline information is not gathered as a result.
- There may be no specific provisions for vulnerable people in land-acquisition legislation, although there may be other legislative acts protecting vulnerable people.
- Gender-related risks are rarely considered.
- Planning documents (RP or RF) are generally not required.
- Monitoring and evaluation are not required.

- Government agencies may invoke a “precedent effect” that they believe will make further land acquisition at usual government conditions difficult or impossible.

Where local law or specific project legal arrangements require the government to lead land acquisition, these gaps may be difficult to overcome unless addressed specifically by the project proponent early in the project development process and provided for in project agreements or other legal documentation.

It is advisable to engage a resettlement expert with specific experience in government-led land acquisition processes to identify potential gaps and recommend appropriate bridging measures to align with project standards.

3.18.2. Requirements for clients in government-managed land acquisition

3.18.2.1. Responsibilities

The client remains responsible for complying with and meeting the objectives of the EBRD’s ESRs, including in situations where land acquisition is managed by government authorities in accordance with ESR 5. In such cases, the client is expected to apply a best-effort approach to identify and address any gaps in line with the approach presented in the following paragraphs, and to promptly inform the EBRD of any challenges or limitations encountered.

3.18.2.2. Gap analysis and government engagement

Potential risks associated with government-led land acquisition should be identified as early as possible during project scoping, allowing time for appropriate mitigation measures to be developed and, where necessary, legally formalised. This requires early and sustained engagement with the relevant government agency, as outlined in ESR 5, paragraph 58, (i), and should be factored into the overall project schedule. If engagement with the government proves unsuccessful, this must be promptly reported to the EBRD to inform project-level risk management. The gap analysis should, at a minimum:

- Check and review legislation and identify gaps, with a focus on:
 - compensation at full replacement cost and related valuation methodologies (detailed analysis of gaps in government valuation methods against full replacement cost methodology, as detailed in this guidance note)
 - in-kind compensation (resettlement, land-for-land) and legal avenues to deliver such types of compensation
 - consultation and negotiation prior to expropriation procedures
 - rights of informal users
 - risks of forced evictions
 - baseline studies
 - livelihood-restoration programmes.
- Benchmark against other projects in the country that have benefited from the support of international financial institutions (IFIs), as it is likely that these projects have faced similar issues in aligning government practice with their standards.
- Engage government on the benefits of ESR 5 and provide capacity building if required.

- Engage the government on a “top-up” approach, whereby the government takes care of compensation in accordance with national legislation while the client develops and pays for project-specific top-up measures. Where cash top-ups are not acceptable to the government, the possibility of implementing in-kind top-ups should be explored – these could become acceptable to government as they do not involve higher cash payments.
- Look into cost-sharing arrangements whereby the government provides the funds for compensation in accordance with national legislation, while the private client finances supplemental costs arising from the application of EBRD RPs (additional compensation contributions, livelihood restoration and compensation to informal users).
- Look into fund channelling and government money-disbursement rules and check whether funds can be available in time before land is required (compensation to be delivered prior to land entry).
- Seek formal agreement from government on key areas where regulation is not aligned with ESR 5.
- Formalise government commitments in an agreed supplemental RP.
- Check at what level of government the supplemental RP, including its timeline and budget commitments, will have to be approved.

3.18.2.3. Avenues for meeting gaps in government practice

Bridging gaps in compensation during government-managed land acquisition is often one of the most complex challenges that projects face. In many cases, government officials may be reluctant to adopt higher compensation rates – often due to legal restrictions, concerns about setting precedents or the perception of misusing public funds.

In PPP projects or other projects involving a private partner, there may be greater flexibility to address these gaps. For example, the private partner can – in coordination with the responsible government agency – support supplementary measures such as establishing a resettlement action plan fund to provide additional compensation to people not formally eligible for compensation.

In fully public-sector projects, alternative mechanisms may need to be identified to ensure alignment with ESR 5 standards. This may involve early dialogue with the relevant authorities and consideration of project-level risk mitigation measures.

When compensation cannot be increased to meet full replacement cost or expanded to cover categories of people deemed ineligible for compensation in accordance with local legislation, it is often advisable to seek to offset insufficient compensation through the payment of “allowances” (rather than “compensation”) or provision of in-kind livelihood restoration benefits (such as replacement land or housing, employment opportunities, tools, equipment, livestock or seeds to enable people to re-establish income-generating activities).

3.18.2.4. Supplemental resettlement plan

Any supplemental resettlement plan should meet the requirements of ESR 5, paragraph 60. It should include:

- A description of the entitlements of displaced persons provided under applicable laws and regulations.
- The measures proposed to bridge any gaps between such entitlements and the requirements of ESR 5.

- The financial and implementation responsibilities of the government agency and/or the client in the execution of this plan.

In cases where land acquisition and resettlement have been undertaken by a government agency prior to the EBRD's involvement, the supplemental resettlement plan and corrective action plan described in this guidance note are the same document.

3.19. Monitoring and evaluation

Monitoring and evaluation (M&E) is a key component of the resettlement and livelihood restoration process and as such is a requirement of ESR 5. The M&E process examines what works and what does not, why it works or why it does not, and what needs to change. It is meant to track progress and to enable reporting, but also to guide action, particularly where correction is needed.

Monitoring is a recurring task that starts from the resettlement planning stage and involves the tracking of information for three purposes:

- Identifying deviations from objectives and commitments so that corrections can be made where needed.
- Learning from experience to improve future practice.
- Strengthening accountability and transparency on progress and issues encountered.

Evaluation assesses the performance of a completed project against initial objectives as well as its compliance with policies, standards and the initial RP. Improvements and corrective actions are recommended, and learning occurs through evaluation. It is typically based on data gathered during the monitoring exercise.

Regardless of the magnitude of impacts, all projects that trigger ESR 5 are expected to undertake internal monitoring in line with provisions in ESR 5, paragraph 62, and to submit a land acquisition and resettlement execution report (see ESR 5, paragraph 64, and Annex 8 of this guidance note). Projects with more significant impacts are also expected to have regular independent external monitoring (either compliance reviews or a completion audit or both), in accordance with the provisions of ESR 5, paragraph 65, and Annex 8 of this guidance note. Budgets submitted in RPs should make adequate provisions for internal and external monitoring and completion audits wherever applicable.

Annex 8 provides details on monitoring requirements by describing the different layers and documentation expected from clients in relation to resettlement.

3.20. Physical displacement and resettlement assistance

3.20.1. Physical displacement and economic displacement

In most cases, physical displacement also entails economic displacement. The livelihoods of displaced people are obviously impacted by displacement, usually because they lose productive assets such as agricultural land or businesses, or simply because of the disruption caused. Economic displacement is addressed separately from physical displacement in ESR 5 for the sake of clarity, but people who are physically displaced (see ESR 5, paragraphs 67-73) will also require livelihood restoration measures as required in ESR 5, paragraphs 74-76.

3.20.2. Physical resettlement strategies

The EBRD recommends that physical resettlement strategies prioritise the provision of adequate replacement properties over cash compensation, provided that this approach is agreed with PAPs. Where the client proposes cash compensation to address physical displacement, the EBRD will require the client to demonstrate that PAPs – including all genders and potentially vulnerable groups – have been meaningfully consulted and have overwhelmingly stated their preference for cash compensation (see also Section 3.6.6). Physical resettlement may involve one or a combination of the following strategies:

- The development of a resettlement site and reconstruction of dwellings.
- The purchase of existing properties and their allocation to physically displaced households.
- The construction of new dwellings within the fabric of an existing community rather than at a dedicated resettlement site (“in-fill” resettlement).
- Facilitated self-building of dwellings either in a dedicated resettlement site or in “in-fill” land plots.

Each resettlement option has advantages and disadvantages that will be highly context specific. The selection of one or more options should be informed by thorough consultation with all layers of the affected communities. For projects that physically displace significant numbers of people, it is considered good practice to offer multiple resettlement options and/or alternative resettlement sites.

Other ESRs may be applicable to the development of resettlement sites, specifically:

- An ESIA may be required under ESR 1.
- ESR 2³⁶ and ESR 4³⁷ apply to workers employed to develop a resettlement site and build resettlement housing.
- Any secondary displacement at the resettlement site must be managed according to ESR 5 and the main project RP.
- Consultation with host communities must take place in line with the principles in ESR 10.
- Care must be taken to deal with any environment, biodiversity and cultural heritage issues at resettlement sites in accordance with ESR 3³⁸, ESR 6³⁹ and ESR 8 respectively.

3.20.3. Security of tenure

The EBRD requires that physically displaced people be offered a replacement property with security of tenure. This is an important component of adequate housing. For people who previously held a property in full ownership (whether formalised or not), this means that the replacement property should also be held in full ownership, with documented ownership rights (for example, a perpetual title). For informal users or tenants who had no legally registered property rights in the pre-project situation, while it is good practice to offer ownership rights if possible, options such as long-term leases in social housing could also be acceptable. For tenants, a cash payment allowing them to pay the deposit for securing a new dwelling (typically equivalent to three to six months of rent) is also adequate. Options for providing security of tenure

³⁶ See EBRD (2024a), pp. 37-44.

³⁷ Ibid, pp. 51-59.

³⁸ Ibid, pp. 45-50.

³⁹ Ibid, pp. 75-81.

will depend on national law and tenure systems and may combine different characteristics. The objective should be to ensure that in aggregate these provisions offer value to PAPs that is equal to or greater than what they are losing as a result of displacement.

3.20.4. Adequate housing

Adequate housing should meet the following criteria:

- adequate privacy
- adequate space
- physical accessibility
- adequate security
- security of tenure
- structural stability and durability
- adequate lighting, heating and ventilation
- adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities
- suitable environmental quality and health-related factors
- adequate and accessible location regarding work and basic facilities
- affordability.

Most of these criteria are context specific. Many of the EBRD's countries of operation have stringent building and housing standards, and adequate housing criteria are achieved through the application of these standards. However, gaps may exist – either within the standards themselves or in their practical implementation by architects and contractors. For example, issues such as accessibility for people with disabilities may be overlooked, and certain key aspects of adequate housing – such as location or security – may not be addressed by building codes. To ascertain appropriateness and compliance, it is essential to consult with affected communities and relevant stakeholders – including national housing regulators and architects – when defining adequate housing standards in the specific context of the project area. Furthermore, resettlement should not serve as a testing ground for unproven approaches; only reliable, proven technologies and construction materials should be used.

3.20.5. Resettlement assistance

Resettlement assistance is required when people are physically displaced by a project. This assistance is intended to minimise the disruption caused by resettlement and will vary according to the types of entitlements (provision of a replacement house or cash compensation) and categories of affected people (owners or tenants, residents or non-residents).

Resettlement assistance must be discussed with the affected persons, including women, and should include:

- for residents, whether owners or tenants:
 - support in moving belongings, either in kind (provision of moving services) or in cash (moving allowance covering the cost of self-move)

- support with administrative formalities such as registration at the new address and updating identify documents
- support in re-establishing utility services
- support in establishing resident committees, management arrangements and cost recovery mechanisms where there are common facilities that require collective management (such as lifts, gardens or playgrounds).
- for resident tenants:
 - support in identifying a replacement dwelling.
- for non-residents:
 - no specific assistance.

3.20.6. Impacts of physical resettlement on host communities

Any secondary impacts of an influx of PAPs into an existing community (“host community”) must be assessed and managed in close consultation with all relevant stakeholders in that community as soon as possible after the impacts are recognised. Typical examples of impacts to host communities include:

- land take for resettlement sites and associated livelihood impacts
- increased demand on utilities (water, power, sanitation) or educational and health facilities
- conflict over the use of natural resources such as grazing land or fishing grounds
- potential conflict and jealousy between the “haves” (PAPs) and “have-nots” (hosts)
- cultural differences between communities.

Any land acquisition, physical or economic displacement affecting a host community must be managed in accordance with ESR 5, by seeking avoidance and minimisation, then by compensating any residual impact according to the same principles applying to affected people. Indirect impacts to utilities and community facilities in host communities should also be mitigated through the expansion of capacity (in terms of both facilities and staff, as applicable). Indirect impacts to communal natural resources – such as increased pressure on grazing land or water bodies – must also be addressed, for example through support for better management. Lastly, it is good practice to offset impacts to host communities by including them in livelihood improvement activities targeted at directly affected persons or in community development projects.

3.20.7. Contents of the resettlement plan in cases of physical displacement

The sample structure of an RP (including for situations that entail physical displacement) is presented in Annex 9.

3.21. Economic displacement and livelihood improvement or restoration

3.21.1. Overview

Livelihood restoration is neither a part of compensation nor a “nice-to-have”, but is a project obligation wherever livelihoods are affected. It is made in addition to compensation. Livelihood restoration should

therefore be separate from compensation, community development and other “corporate social responsibility” activities. It should be separately funded and monitored.

As mentioned in Section 3.20.1, physically displaced people are also economically displaced in the vast majority of cases. The requirements in ESR 5, paragraphs 74-76, therefore also apply to physically displaced people.

The EBRD, like other similar institutions, requires that impacts to livelihoods be assessed as part of RPs (through socioeconomic surveys as described in Section 3.4.2), be mitigated through specific activities and that the improvement or restoration be monitored until the completion audit demonstrates that ESR 5 objectives and requirements have been met.

ESR 5, paragraph 76, provides requirements on which livelihood improvement or restoration activities can be considered in response to various types of impacts. Livelihood restoration should be adequately funded and implemented by competent personnel with relevant experience. There is no room for experimentation where livelihoods have been affected, and only proven techniques and proven implementation partners should be used. Linkages are often key (with state-funded economic development programmes, agricultural development agencies and possibly existing cooperatives, training institutes, business promotion agencies and NGOs). The involvement of government agencies is often paramount to ensuring sustainability of support and long-term monitoring.

3.21.2. Transition support

Economically displaced people should be supported during the transition between their sources of livelihood being affected and the time when the selected livelihood restoration activities yield results. For example, one or more agricultural cycles may be lost between entry into land and access to replacement land. The same principle applies to relocated businesses, which may require some time to become operational again. The duration of transition periods and the associated losses of income should either be factored into the compensation calculation or be offset as a separate transition allowance.

3.21.3. Examples of livelihood restoration activities in typical situations

The following table shows some examples of livelihood restoration activities in typical situations:

Table 4: Examples of livelihood restoration activities in typical situations

Situation	Possible livelihood restoration activities (indicative)
Linear projects with marginal impacts on a large number of agricultural land plots	<ul style="list-style-type: none"> • Transition support • Support with intensification of agricultural activities (improvement of soil preparation techniques, improvement of irrigation infrastructure and techniques, use of improved varieties, better fertilisation, greenhouses) • Support with better marketing of agricultural production • Linkage of affected farmers with existing agricultural development and extension initiatives
Large footprint affecting whole agricultural plots	<ul style="list-style-type: none"> • Transition support • Support with access to replacement agricultural land • Support with intensification of agricultural techniques (see above) • Pension schemes for older farmers • Vocational training for younger farmers and consideration of the development of alternative activities (employment, procurement), linked to the project if possible

Situation	Possible livelihood restoration activities (indicative)
Physical displacement of rural community	<ul style="list-style-type: none"> Facilitation of access to funds (such as grants or microfinance) in view of the development of small businesses Transition support In addition to the above, re-establishment of backyard gardening where needed, which may provide an important source of livelihood to the most vulnerable part of the population (particularly the elderly) Replacement of houses with gardens by similar houses with gardens, rather than apartment units Re-establishment of breeding of small animals (poultry) and support for improved techniques (health, feed) and marketing Re-establishment of and support for displaced small businesses
Large footprint affecting pastureland	<ul style="list-style-type: none"> Transition support Support with access to alternative grazing areas Support with improvement of animal husbandry techniques (such as improvement of animal feed, forage crops, animal health, artificial insemination) Facilitation of access to financing Support with improving marketing, including storage and/or processing of milk or meat
Urban projects with impacts on existing businesses	<ul style="list-style-type: none"> Transition support Support with business re-establishment in other locations (identification of sites and facilitation of access to these sites), support with improved business management and support with formalisation of informal businesses Support in retraining and relocation of affected business employees who lose their jobs temporarily or permanently; verification of the adequacy of mandatory severance payments for terminated employees and additional compensation (top-up) if required Linkages with existing business support programmes Linkages with microfinance institutions or commercial banks to improve access to financing
Road widening affecting roadside businesses such as small cafes and restaurants or fruit sellers	<ul style="list-style-type: none"> Establishment of parking areas where roadside businesses can be relocated; support with management and formalisation Linkages with existing business support programmes Linkages with microfinance institutions or commercial banks to improve access to financing See above with regards to employees
Offshore projects affecting fishing vessel movement and fishing grounds	<ul style="list-style-type: none"> Transition support Support with changes of activity in areas with overfishing Support with reaching new fishing grounds (upgrades to equipment) if environmentally acceptable Support with improving fishing techniques, including adopting techniques that are more respectful of biodiversity (upgrade of nets or other fishing gear) Certification of produce where possible (eco-friendly fishing or similar) Support with improved marketing (including cold chain and transport) Establishment of cooperatives or similar groupings; improved management of fishing enterprises Access to credit In the EU, where relevant, facilitation of access to EU mechanisms designed to support fishermen's reconversion and the scrapping of obsolete vessels

This is provided for general guidance only. Each situation is specific, and livelihood restoration planning should rely heavily on consultation with affected people, including women and the vulnerable, government

agencies specialising in delivery of economic development programmes, and local experts with relevant experience (such as agronomists, biologists, veterinarians, business development and training specialists).

3.21.4. Specifics in cases involving informal users

Livelihood restoration is an ESR 5 obligation for all economically displaced persons, including informal users that may not be eligible for compensation of land.

Farmers or herders informally using affected public land and sharecroppers or renters using affected public or private land must be included in agricultural livelihood restoration designed for affected farmers in general, despite their informal status. This may involve access to replacement land and/or other initiatives to enhance agricultural productivity.

Similarly, livelihood restoration activities must be devised for small businesses informally occupying public space, in addition to the compensation described in the first bullet point of ESR 5, paragraph 76. The best approach is usually to facilitate access to an alternative location:

- In rural areas, there are examples in the southern and eastern Mediterranean, Central Asia and the Caucasus of the reconstruction of an intercity highway providing an opportunity to build regularly spaced parking areas where farmers selling food or farm produce could establish a stall or kiosk in safer conditions. This also allowed public authorities to collect a modest levy on sales, creating a win-win outcome.
- In urban areas, small businesses can be helped to access formal markets. Interaction with municipal authorities will be needed to identify alternative locations where small businesses could be re-established.

3.21.5. Livelihood restoration planning

Where there is economic displacement, the client will prepare an LRP either as a standalone document covering all the impacts of land acquisition, if there is no physical displacement, or as a chapter within an RP if there is also physical displacement.

In addition to the topics covered in an RP (see Annex 9), an LRP should address in detail all measures required to improve or restore livelihoods in the form of an action plan, with implementable activities described in detail, including budget, timeframe and sources of funding.

Where linkages with existing development initiatives are recommended, the LRP should provide evidence that these linkages have been consulted and agreed with relevant parties (for example, that training for PAPs has been agreed with the relevant training institutes) and include the number of beneficiaries, activities, timeframe, budget and funding.

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Guidance note
Environmental and Social Requirement 5

Annexes

Annex 1. Glossary

Term	Definition
Adequate housing	Adequate housing refers to: adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure such as water supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; adequate and accessible location with regard to work and basic facilities; and affordability, particularly in regard to the long-term recurrent cost of living in the dwelling (utilities, services and maintenance).
Affected community	Community affected by the project as defined under ESR 1 and whose members are experiencing physical or economic displacement. Affected communities include host communities.
Affected person	A legal or natural person experiencing physical or economic displacement as a result of project-related land acquisition or restrictions on land use, other assets or natural resources.
Business	Shops, restaurants, services, manufacturing facilities and other enterprises, regardless of size and whether licensed or unlicensed.
Compensation	Payment in cash or in kind for loss of land, other assets or natural resources and access thereto, that are acquired or affected by the project. It encompasses all forms of compensation, including the provision of a dwelling (apartment or house and land) to replace the affected one.
Completion audit	External audit of land acquisition and resettlement activities undertaken after the activities defined in the resettlement plan have been completed, to determine whether requirements in ESR 5 and provisions in the resettlement plan have been met, particularly those pertaining to livelihood improvement or restoration.
Displacement (economic)	Loss of income sources or means of livelihood due to loss of assets – including land – or of access to assets as a result of project-related land acquisition, temporary occupation or restriction of access to natural resources. People or enterprises may be economically displaced with or without experiencing physical displacement.
Displacement (physical)	Loss of dwelling or shelter as a result of project-related land activities that require the affected person(s) to move to another location.
External compliance review	Periodic external reviews of land acquisition and resettlement activities undertaken during planning and implementation of these activities to determine whether requirements in ESR 5 and provisions in the resettlement plan are being met. It must include recommendations to correct any observed gap.
Forced eviction	Acts and/or omissions involving the coerced or permanent or temporary involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that they occupy or depend on, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protections provided for under ESR 5.

Term	Definition
Full replacement cost	A method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement material and labour for construction of structures or other fixed assets, plus transaction costs. In all instances where physical displacement results in loss of shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets acceptable minimum community standards of quality and safety.
Gender	The behaviours, social attributes and opportunities associated with being of a particular sex, which are socially constructed, learned, context and time specific, and changeable.
Host community	A community (geographical, social, economic) that receives people who are being resettled (or displaced) as part of a project. These are the people, households, and institutions already living in, or neighbouring, the area to which displaced persons are relocated (or with whom displaced persons integrate), and who may experience impacts – benefits as well as costs – associated with the influx of resettlers.
Inventory	Inventory should include a detailed account – prepared through a consultative, impartial and transparent process – of the full range of rights held or asserted by affected people, including those based on custom or practice, secondary rights such as rights of access or use for livelihoods purposes, and rights held in common.
Involuntary resettlement	<p>In the sense of ESR 5, resettlement refers to two distinct but related processes:</p> <ul style="list-style-type: none"> • Displacement, whereby a project causes affected persons to lose land, dwellings or other assets, or access to these assets or to natural resources. • Resettlement, whereby affected persons are assisted in relocating to new dwellings and in improving, or at least in restoring, their livelihoods, including incomes and living standards. <p>Resettlement is considered involuntary (thereby making ESR 5 applicable) when affected persons do not have the right to refuse land acquisition that results in displacement. This occurs in cases of:</p> <ul style="list-style-type: none"> • Expropriation using the “eminent domain” powers of the state. • Negotiated settlements in which the buyer can use expropriation, even if as a last resort, when negotiations with the seller fail.
Land acquisition	All methods of obtaining land for project purposes, which may include: outright purchase; expropriation of land and assets; acquisition of temporary or permanent access rights, such as easement rights; and establishment of restrictions of access to protected and other areas. Land acquisition may also include: (i) acquisition of unoccupied or unutilised land whether the landholder relies upon such land for income or livelihood purposes; (ii) repossession of public land that is used or occupied by individuals or households; and (iii) project impacts that result in land being submerged or otherwise rendered unusable or inaccessible. “Land” includes anything growing on or permanently affixed to land, such as crops, buildings and other improvements, and appurtenant water bodies.
Land acquisition and resettlement execution report	A report finalised upon completion of land acquisition, resettlement and livelihood restoration activities that includes: a summary of project impacts (both physical and economic displacement) and principles guiding the resettlement plan; a description of efforts to avoid and minimise displacement; a summary of consultation events and outcomes, including how they influenced entitlements and other features of the land acquisition, resettlement and livelihood restoration activities; a description of the compensation delivery process; a description of any issues encountered and how they were resolved; a summary of grievances received and how they were resolved, including a list of any grievances and court cases pending at the date of submission of the report; and a description of resources mobilised to plan and implement land acquisition, resettlement and livelihood restoration activities.

Term	Definition
Land rights	Includes full and permanent ownership rights recognised by the law of a country, whether registered or customary; permanent or temporary usufruct (usage) rights derived from a formal or informal agreement or from custom, including long or short-term lease, tenancy and sharecropping as well as formal or informal use of communally held natural resources such as forest, pasture and water bodies; rights of way established by law or custom; and restrictions of use or access established by law or custom.
Livelihood	<p>Livelihood refers to the full range of means that individuals, families and communities use to make a living, such as: wages from employment; cash income earned through an enterprise or through the sale of produce, goods, handicrafts or services; rental income from land or premises; income from a harvest or animal husbandry, share of a harvest (such as various sharecropping arrangements) or livestock production; self-produced goods or produce used for exchange or barter; self-consumed goods or produce; food, materials, fuel and goods for personal or household use or trade derived from natural or common resources; and pensions and various types of government allowances.</p> <p>Three broad types of livelihoods are often distinguished:</p> <ul style="list-style-type: none"> • land-based livelihoods (activities such as cropping and grazing of livestock as well as the harvesting of natural resources) • wage-based livelihoods • enterprise-based livelihoods. <p>However, livelihoods in developing, emerging and transition economies are often based on complex combinations of activities at household level.</p>
Livelihood improvement or restoration	Specific allowances or activities meant to support affected persons in improving or at a minimum restoring their livelihoods compared with pre-displacement levels.
Property	Buildings, land or both together, including all fixed assets attached to the land such as trees and ancillary structures.
Resettlement assistance	Technical and financial assistance provided to displaced people in addition to compensation to support their efforts in relocating to a new home and restoring their livelihoods.
Restrictions on land use	Limitations or prohibitions on the use of agricultural, residential, commercial or other land that are directly introduced and put into effect as part of the project. These may include restrictions on access to legally designated parks and protected areas, restrictions on access to other common property resources and restrictions on land use within utility easements or safety zones.
Security of tenure	When resettled individuals or communities are resettled to a site they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are socially and culturally appropriate.
Transition period	Period between the occurrence of displacement and the time when affected livelihoods are restored.
Vulnerable groups (or people)	People who – by virtue of gender identity, ethnicity, age, disability, economic disadvantage or social status – may be more adversely affected by project impacts than others and who may be limited in their ability to claim or take advantage of project benefits. Vulnerable individuals and/or groups may also include people living below the poverty line, the landless, the elderly, households headed by women and/or children, refugees, internally displaced people, ethnic minorities, natural resource-dependent communities or other displaced persons who may not be protected by national and/or international law.
Willing buyer – willing seller transactions	Negotiated market transactions in which the seller is not obliged, coerced, intimidated or bribed to sell and the buyer cannot resort to expropriation or another compulsory process if negotiations fail.

Annex 2. How to address legacy resettlement

ESR 5 requirements on past (“legacy”) land acquisition prior to the EBRD’s involvement

ESR 5, paragraph 7, reads as follows:

“This ESR also applies to any physical displacement or economic displacement carried out by the client or a government for purposes relevant to the project before the EBRD’s involvement. Where displacement has already occurred prior to the involvement of the Bank, an audit will be conducted to identify: (i) compliance with national legislation and the key objectives of this ESR; (ii) any significant deviations in past activities from the key objectives of this ESR, including in respect to the rights of vulnerable people; and (iii) the corrective actions that may be required to address the gaps, as identified through the audit, to ensure compliance with the key objectives of this ESR. A corrective action plan will be prepared, which will describe all activities to achieve compliance with this ESR in the form of a time-bound plan, including a budget, implementation arrangements, allocation of roles and responsibilities, and implementation schedule. Any ongoing land acquisition, even if it was started before the EBRD’s involvement, will be required to comply with this ESR.”

Approach to past (legacy) land acquisition and resettlement

Where displacement has already occurred prior to the involvement of the EBRD,⁴⁰ an independent audit will be undertaken, proportionate to the level of risk, to assess compliance with national legislation and to identify any residual contextual risks and existing vulnerabilities related to past and ongoing land acquisition and resettlement (LAR). This due diligence – typically carried out through a dedicated independent audit – must, among other verifications, confirm that any legacy LAR conducted prior to the Bank’s involvement was implemented in accordance with applicable host country laws and regulations, and is aligned with the objectives of ESR 5, which is a key requirement of the EBRD.

Where gaps are identified, a risk-based management approach will be applied to address residual or contextual risks. This will focus on addressing existing vulnerabilities associated with previously acquired land, while recognising the practical limitations of retroactive compliance. For instance, in cases where the audit concludes that certain actions – such as prior consultation or timely compensation – were not undertaken in the past but cannot reasonably be implemented retrospectively, full application of ESR 5 will not be required. Instead, corrective actions will be designed to mitigate current risks and vulnerabilities in a practical and proportionate manner. Any such actions should be informed by the findings and gap analysis of the independent audit and tailored to the project’s specific context.

40 For the purposes of this guidance, the EBRD’s involvement is deemed to commence upon the signing of a mandate letter by the client or upon achievement of an equivalent formal milestone indicating the initiation of the Bank’s engagement.

Early due diligence and potential requirement for an audit

An audit of past land acquisition is required wherever early due diligence demonstrates that land acquisition for the needs of the project has been carried out prior to the EBRD's involvement.⁴¹ This may be the case in the following situations, all of which are commonly encountered:

- A private developer (such as for a renewables project) has started willing buyer – willing seller transactions before lender involvement.
- A previous project sponsor – or co-sponsor – has acquired land before the involvement of the EBRD client (this is not uncommon in mining sector projects, where there are changes of ownership between the exploration and development phase and the construction phase).
- A government agency has acquired land beforehand in view of a PPP deal with a private sponsor (such as highways, railways and airports).

The scope of the audit will be commensurate with the magnitude of land acquisition and the associated risks and impacts. Typically, a one-person to two-person-per-month level of effort will be required for any project involving significant land acquisition, or more if there are complex issues or if information is not readily available and affected people cannot be readily traced.

Key expectations from the audit

Considering ESR 5, paragraph 7, the legacy LAR audit will be expected to make the following determinations:

- Was past land acquisition carried out specifically in anticipation of the project?
 - This determination may be relatively straightforward where the area acquired is the same as what is needed for the project (often the case where land is acquired by government in anticipation of a PPP).
 - However, in some cases the situation may be less clear, which can raise complex issues. For example, if more land was acquired than the project needs, the auditor may have to dissociate the specific needs of the project (its anticipated land footprint) from that broader area. In other cases – such as PPPs or any public or private-sector projects with associated facilities – land may have also been acquired for associated facilities that are not part of the PPP scope (for example, an access road to the facility).
 - Another difficult legacy situation is that of broad “clearance” operations undertaken in large cities to free up existing right of way or state lands that have been historically encroached by slum dwellers or informal traders.⁴² The operation could be intended to address encroachment at the level of a whole city or even country, while the project (for example a water pipeline or transmission line in the cleared-up right of way) affects a much smaller area.
 - The audit may conclude that the displacement was not intended specifically – or only partially – for the purposes of the project. However, if forced eviction and gross violations of ESR 5 occurred in the past and effective remedy is no longer feasible for various reasons, the project will be excluded based on a decision by Bank management.

⁴¹ The EBRD will be able to provide generic terms of reference for such audits, to be adapted by the client to the project's specific context.

⁴² A relatively common occurrence in some countries in sub-Saharan Africa.

- Is land acquisition that was meant for the specific needs of the project now complete?
 - This is important as, under the last provision of ESR 5, paragraph 7, land acquisition that is ongoing when the EBRD becomes involved is required to comply with all provisions of ESR 5, while completed land acquisition has to comply with the host country legislation and requirements as well as with the “key objectives of ESR 5”.
 - The audit should determine – based on a review of the project’s anticipated footprint and a comparison with lands that have been acquired – whether all land acquisition required for the project has been completed prior to EBRD involvement or is still ongoing, and identify outstanding land needs. Ongoing and future land acquisition are required to comply fully with all provisions of ESR 5. The client may be required to suspend ongoing land acquisition until the audit and associated corrective action plan are available.
 - “Complete” land acquisition means that all entitlements have been paid and ownership titles have been transferred to the relevant state authority or private project sponsor as provided in applicable national legislation. If compensation payments are delayed due to legal disputes, the government or acquiring entity must have deposited the compensation amount into a treasury, escrow or similar account as mandated by applicable law; and/or have transferred land titles, or initiated the title transfer process where applicable, in line with host country regulations, along with the handover of unencumbered land to the project or client.
- Any ongoing land acquisition, even if it was started before the EBRD’s involvement, will be required to comply with the full ESR 5 requirements. When did land acquisition take place?
 - This is an important determination to make as it will drive the practicability of a potential corrective action plan. When defining and determining past LAR, the EBRD does not apply a time-based cut-off and remains neutral about when the LAR process occurred prior to its involvement (for example, actions are considered to be legacy LAR whether they took place 10 years or three years before the Bank’s engagement). However, experience shows that assessing land acquisitions that occurred more than 10 years before the audit is often challenging on a practical level, as many state institutions are not required to retain records beyond legally mandated periods and affected persons are frequently difficult to locate for interviews after this period of time, meaning information on their livelihoods, housing or vulnerability status may be unavailable.
 - In addition, if affected persons cannot be located, implementing corrective measures – such as supplemental livelihood restoration or support for vulnerable groups – will be impossible.
- Did land acquisition comply with national legislation?
 - The EBRD will always require full compliance with national legislation in legacy LAR. Auditing compliance will require the involvement of experienced national land acquisition experts.
 - The auditor will confirm whether the legal conditions for expropriation were met (including declaration of public interest or similar, notifications to affected people, access to court and right of appeal). Specific attention should be given to assessing so-called “urgent” expropriations, which often expedite processes granting access rights to the client but may negatively impact affected people’s rights. Such cases may involve applications for expropriation through the courts without prior consultation or negotiation with PAPs, and may grant access rights to the project without compensation being provided to PAPs.

- Did land acquisition comply with the key objectives of ESR 5?⁴³ The key objectives of ESR 5 that the audit should check compliance against (see also Section 1.3) include:
 - Process:
 1. Avoidance and minimisation of involuntary resettlement:
 - Was every feasible alternative project design or site considered to avoid or minimise involuntary resettlement?
 - Can documentation be provided showing how alternatives were evaluated and why the selected option was chosen?
 - Were technical, environmental and social considerations factored into exploring alternatives?
 2. Avoidance of forced eviction:
 - Is there any evidence or record of forced eviction related to the project?
 - Were affected persons notified in advance of any relocation or land acquisition activities?
 - In cases where evictions were unavoidable, were eviction procedures in line with host country laws and international treaties ratified by the host country?
 3. Consultation, participation and information disclosure:
 - Was consultation conducted with affected persons before, during and after land acquisition and resettlement?
 - How was information about the project, compensation and resettlement options disclosed to affected communities? Were any information documents disclosed?
 - Were vulnerable groups specifically included in consultation processes?
 4. Grievance mechanisms:
 - Did the land acquisition process allow affected people to voice objections to the compensation proposals of the expropriating agency? Is there a grievance mechanism? Is it accessible to PAPs? How many grievances have been filed and what is the status of their resolution?
 - Are grievance processes transparent, timely and culturally appropriate?
 - Are there any ongoing claims, media reporting or civil society organisation engagement, and any records of reported issues?
 5. Compensation:
 - Were all affected persons compensated in a timely manner for their loss of assets?
 - Did the compensation value allow affected people to replace their affected property with a similar or better one?
 - Was compensation paid prior to impact? If not, why and how long after impact was it paid?

⁴³ “Complying with the key objectives” of ESR 5 can be interpreted similarly to the IFC’s parlance in Guidance Note 5, paragraph 70 (“the client should make a determination as to whether those resettled were compensated in a manner consistent with the requirements of Performance Standard 5”).

6. Physical resettlement (if applicable):
 - Does resettlement housing meet the “decent housing” criteria?
 - Do PAPs have security of tenure?
 - Were adequate essential services such as water, electricity and sanitation provided at resettlement sites?
7. Livelihood restoration:
 - What measures were implemented to assist affected persons in restoring or improving their livelihoods? Are there affected people now living in inferior conditions than before?
8. Support for vulnerable people:
 - Were vulnerable people identified and specifically supported?
 - How have informal users or informal business employees been addressed? Were the entitlements they received (or absence thereof) likely to create new vulnerabilities?
 - Are there existing vulnerabilities that arose as a result of the past LAR process (for example, homeless people or physically displaced people living in inadequate housing or without security of tenure)?
9. Ongoing or closed legal cases pertaining to LAR:
 - Have these cases been closed and how have they been closed?
 - Do the rulings in these cases bring into question the legality of the LAR process and create a jurisprudence applicable to all LAR and all entitlements?
10. Direct benefits from the project to displaced persons:
 - Were displaced persons given opportunities to directly benefit from the project (such as through employment, training or access to services)?
 - Is there evidence of uptake or participation by displaced persons in project benefits?

The IFC 2023 resettlement handbook provides a template for the scope of a legacy resettlement audit.⁴⁴

The consultants in charge of the audit must be required to provide a clear way forward, structured along the following key steps:

- Answers to the questions, including those listed above that are key to the assessment of legacy LAR process and outcomes, presented in a simple tabular form.
- Identification of ongoing issues and existing vulnerabilities associated with legacy LAR.
- Identification of key social, economic and reputational risks.
- Corrective action plan addressing key risks, including any existing vulnerabilities caused.

Once the audit report and draft corrective action plan are available, the client, the consultants, the EBRD and the government if warranted should come together in a workshop format to discuss the conclusions and the plan in view of agreeing on its implementation. The CAP shall be approved by the Bank and will become part of the requirements for a loan agreement, typically as part of the ESAP.

⁴⁴ See IFC (2023), p. 372, Table 8.4.

Corrective actions

Corrective action plans addressing legacy resettlement issues should take a risk-based approach. In other words, retroactive application of ESR 5, which is generally impractical, should not be sought. Rather, key social, economic and reputational risks outlined by the audit should be addressed by and within the scope of the Bank-financed project implementable activities and in line with the key objectives of ESR 5, with responsibilities for their funding and implementation clearly identified and agreed upon.

Retroactive compensation to offset potential deficiencies with regards to compensation value will typically not be legally possible where past land acquisition has been implemented by government. However, additional support for those clearly affected or worse off as a result of the past land acquisition process is generally possible, particularly in the context of PPPs where a private sponsor will usually be able to remedy the most acute deficiencies, or in private-sector projects where past land acquisition was carried out by the same or another private sponsor. Such corrective action may include:

- Facilitating access to adequate rental housing under reasonable conditions for those left homeless or without an adequate replacement dwelling.
- Specific livelihood restoration support activities and facilitation of access to social welfare support for vulnerable people.
- Supplemental livelihood restoration activities for uncompensated informal businesses, including facilitating access to adequate business locations, training and small business support.

Summary – key steps

- EBRD due diligence to include an independent audit of past land acquisition based on the terms of reference developed by the EBRD (also see the Scope of Work in the IFC's 2023 *Good Practice Handbook: Land Acquisition and Involuntary Resettlement*).⁴⁵
- The audit to provide clear conclusions on the following:
 - Whether past land acquisition was conducted specifically for the project.
 - Whether past land acquisition is complete or ongoing.
 - Whether completed land acquisition fully complied with national law.
 - Any existing vulnerabilities or risks associated with past land acquisition and resettlement.
 - Corrective actions required to address ongoing risks and vulnerabilities arising from past land acquisition, decided using a risk-based approach.
 - The willingness and support of host country authorities to enable the client to implement the proposed measures.
- Where corrective actions are warranted as a result of the audit, consultants and clients must ensure – through meaningful engagement with relevant parties – that these actions are fully implementable, supported by clear timelines and agreed resources, and backed by firm commitments from the parties involved, rather than being merely aspirational.
- The CAP shall be submitted for the Bank's review and approval and will become part of the requirements for a loan agreement, typically as part of the ESAP.

⁴⁵ See IFC (2023), pp. 468-469.

Annex 3. Forced evictions

What is a forced eviction?

Forced eviction, according to the definition in ESR 5, refers to “the coerced displacement of individuals, groups and communities from their homes, lands and/or common property or resources (either legally owned or informally occupied) without the provision of or access to appropriate forms of legal and other protection, or adherence to the basic requirements defined in this ESR”.⁴⁶

The following elements are key to what constitutes a forced eviction:

- Coercion – including use of unnecessary or excessive force⁴⁷ – or of an involuntary nature.
- Absence, inadequacy or lack of due process, access to legal remedies and protections. As the case may be, such legal remedies and protections include, but are not limited to: access to a lawyer; consultation with those affected; adequate formal notifications and information on the proposed evictions; access to temporary housing; transitional food support, healthcare and access to a school for children of school age; specific support for vulnerable individuals, including the sick and disabled.

The right not to be forcibly evicted is an element of the human right to adequate housing. Forced evictions constitute a violation of human rights and are included in the EBRD’s Environmental and Social Exclusion List.

As clearly specified in ESR 5, paragraph 14: “the exercise of eminent domain, compulsory acquisition or similar powers by a client will not be considered to be forced eviction if it complies with the requirements of national law and the provisions of this ESR, and is conducted in a manner consistent with basic principles of due process (namely, it provides adequate advance notice and meaningful opportunities to lodge grievances and appeals; avoids the use of unnecessary, disproportionate or excessive force; does not result in homelessness; and ensures the provision of adequate compensation before the eviction takes place).”

Avoiding evictions

Projects can be faced with situations where groups of ineligible people (for example, people who have encroached into the project footprint after the cut-off date) or people who have already received compensation refuse to leave the site, even though all commitments under local legislation and ESR 5 have been met. In such cases, the project will have to get these people to leave the area, while avoiding a forced eviction.

The first avenue to avoid an eviction is considering in a fair manner any claims by the community that refuses to leave. Grievance redress mechanisms and access to legal remedies need to be in place. Mediation by independent parties such as humanitarian and/or human rights NGOs can help.

The second avenue to avoid an eviction is information and consultation. Informing and consulting affected people, local political leaders, community elders, moral and religious opinion leaders, traders’ associations,

⁴⁶ This definition was originally proposed in UN (2007).

⁴⁷ Whether implemented by public or private security forces.

women or youth societies and the communities at large will typically clarify and help solve most issues, with affected people eventually leaving of their own accord.

Lastly, clients can resort to courts to obtain a formal adjudication, followed by law enforcement actions under the control of the relevant judiciary organs and according to processes and procedures set in law. Where such a route is followed, the client should assess and mitigate potential risks to human rights associated with security force intervention.

Unavoidable evictions as opposed to forced evictions

Where all avenues to reach amicable outcomes have been exhausted and a project ends up having to proceed with unavoidable evictions, the obligation to avoid a forced eviction still applies. The UN's *Forced Evictions Fact Sheet*⁴⁸ recognises that evictions are sometimes unavoidable. This guidance note therefore distinguishes between forced evictions (absolutely prohibited) and “unavoidable evictions” (permissible as a last resort under certain conditions).

The UN fact sheet provides detailed directions on how to conduct unavoidable evictions of ineligible dwellers and/or encroachers while ensuring fundamental human rights are respected.

In line with the UN guidance and ESR 5, unavoidable evictions can be acceptable in exceptional circumstances, but only if they can be fully justified. Unavoidable evictions must be carried out:

- Only in the most exceptional circumstances, with a satisfactory justification based on the public interest argument. The eviction must demonstrably promote general welfare, with clear evidence to support this outcome. The decisions and criteria for justification must also be made public and transparent.
- As a last resort, only after all feasible alternatives to eviction have been explored in consultation with the affected community.
- In accordance with legal provisions that clearly define and foresee evictions.
- After conducting an eviction impact assessment prior to the eviction.
- Following due process protections afforded to the affected individuals, groups or communities.
- Proportionally, with a thorough evaluation of the impact and potential benefits for all affected groups, including through an eviction impact assessment.
- In a non-discriminatory manner, both in law and in practice; evictions must never be discriminatory.
- Without rendering individuals homeless or exposing them to other human rights violations.
- With effective recourse mechanisms available for those directly or indirectly affected.

Requirements for projects involving unavoidable eviction

Where avenues mentioned in the previous section have been exhausted and the client considers an unavoidable eviction, the client must undertake the following:

- Inform the EBRD ahead of any eviction action being taken and provide:

⁴⁸ See UN (2014), pp. 26-35.

- A memo establishing the rationale for the unavoidable eviction, including a description of the origin of the issue, the rationale for the land being urgently needed and a description of the eviction avoidance measures (see following section for details on the proposed structure of this memo).
- A plan of action precisely describing proposals for how the unavoidable eviction will be carried out, including an assessment of potential human rights risks and which remedies will be in place (see indicative list in previous section), as well as the consultations undertaken with relevant stakeholders, including government, security forces as warranted and civil society organisations.

The client should also document implementation of the unavoidable eviction by any adequate means and provide this documentation to the EBRD.

Unavoidable eviction memo and further documentation

The client memo mentioned in the previous section will be submitted to the EBRD ahead of any unavoidable eviction and be structured to present the following information:

1. Description of assets and individuals affected by the eviction: this should include the number of homesteads and persons impacted, paying particular attention to the presence of vulnerable groups such as elderly, disabled persons, women-headed households or children.
2. Justification for the eviction: an explanation of the necessity of the eviction in the context of project implementation and scheduling requirements, demonstrating why alternative measures are not feasible.
3. Legal procedures and consultation efforts undertaken to avoid eviction: this section should outline the relevant national legal framework governing the eviction, detail the land acquisition process undertaken prior to the eviction decision (including consultations and negotiations carried out), describe compensation offers made (including the status of acceptance or refusal and reasons for refusal), and document all notifications and direct engagement with affected persons such as information dissemination, negotiation, and grievance resolution and mediation efforts.
4. Roles and responsibilities of parties involved in the evacuation process: this section should clearly define the roles and responsibilities of all parties involved, including the client, the expropriation agency, the relevant local authorities and, where needed, security personnel. It will specify the scope of each party's duties to ensure a coordinated, lawful and respectful evacuation process, paying particular attention to compliance with legal requirements, protection of affected persons' rights and maintenance of safety and order throughout the procedure.
5. Mitigation measures implemented to reduce adverse impacts: this may include measures to avoid potential conflict at the time of the eviction and the provision of transportation assistance, temporary housing, health and psychosocial support or other relevant support measures aimed at minimising harm to affected individuals.
6. Detailed process and timeline for planned eviction.

Following completion of the unavoidable eviction, the client will be required to submit a follow-up report to the EBRD detailing the actual circumstances of the eviction, supported by photographic or video evidence as appropriate.

Effective grievance management is essential before, during and after eviction to ensure affected persons can raise concerns and seek redress transparently and fairly. Before eviction, accessible information and multiple channels should be established to receive and resolve complaints early. During eviction, mechanisms must remain active to address urgent issues, prevent escalation and protect rights. After eviction, grievance

systems should continue to function to resolve resettlement-related concerns and enable long-term accountability.

Annex 4. Vulnerable people

Vulnerable people are defined in the ESP as follows:

“Persons or groups of people who: (i) may be disproportionately affected by project impacts or more limited than others in their ability to access project benefits, due to being discriminated against, marginalised and/or excluded on the basis of characteristics such as, but not limited to, their sex or gender, sexual orientation, gender identity, gender expression and/or sex characteristics, religion, national origin, race, ethnicity, indigenous status, age (including children, youths and older persons), physical or mental disability, literacy, political views and affiliations, or socioeconomic status and (ii) people in situations of vulnerability, such as people living below the poverty line, the landless, single-headed households, natural resource-dependent communities, migrant workers, refugees or internally displaced people, as well as people affected by conflict or natural disasters.”⁴⁹

Regardless of national or local contexts, the applicability of all these criteria to the group of affected people must be considered in line with ESR 1, although it is recognised that not all criteria may be relevant in a given context. In addition, other criteria may also be relevant in specific situations.

The project’s responsibility is to identify two main categories of vulnerable groups:

- Those who are vulnerable prior to the project and not in relation to the project’s impacts, and who may therefore be disproportionately affected by the project impacts due to their existing vulnerabilities (for example, a physically impaired person subject to physical displacement that would exacerbate an existing vulnerability).
- Those who are not initially vulnerable, but who may become vulnerable as a result of the project (for example, an informal tenant who would not be addressed by compensation under national requirements and would thereby be affected by a project-induced vulnerability).

Vulnerable people may be affected significantly more than other people by the resettlement process. There is a higher risk that even in a process deemed successful for the majority, vulnerable people or groups will be left out, will not benefit while others do or will be disproportionately affected.

*The EBRD will prepare and disclose a more detailed briefing note on vulnerable people. This Annex should be read in conjunction with, and applied alongside, the EBRD’s briefing note on vulnerable people, which is in development and will be released soon.*⁵⁰

Vulnerability factors and criteria

Potential vulnerability factors can be context, group and/or household specific. There are multiple examples, including:

⁴⁹ See EBRD (2024a), p. 8.

⁵⁰ This briefing note will be available at: www.ebrd.com/home/who-we-are/ebrd-values/ebrd-environmental-social-sustainability/reports-and-policies/ebrd-performance-requirements.html.

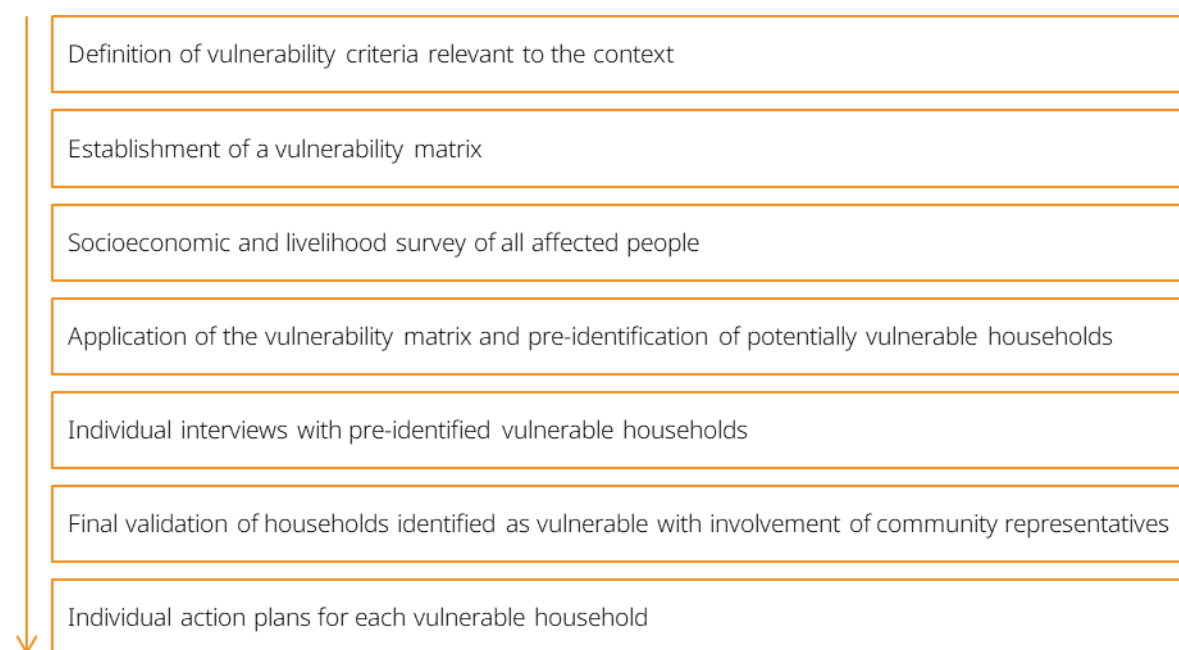
- An ethnic minority may be vulnerable in a given area and not in another, depending on history, current political conditions and the local socioeconomic context.
- An elderly person may or may not be vulnerable at a given time, depending on their health status, social integration and socioeconomic circumstances.
- A female-headed household may or may not be vulnerable, depending on their socioeconomic circumstances, level of education and the level of social acceptance of such households locally.

In all these examples, people may or may not be vulnerable in the context of physical or economic displacement. It is therefore important to adapt the vulnerability assessment to local risks and specific household circumstances. It is also important to take consideration of the fact that some people who may not be vulnerable in the pre-displacement situation can become vulnerable as a result of physical or economic displacement (“displacement-induced vulnerability”), that is they are disproportionately affected. This would be the case with, for example, elderly people losing connections to their relatives and/or local solidarity networks because of physical resettlement.

Several EBRD countries of operation recognise some of the ESP vulnerability criteria (but usually not all) as triggering official classification as “vulnerable” (official terminology may vary) and associated benefits such as pensions, tax exemptions of some degree, free or discounted healthcare and free or discounted transport. While officially recognised criteria must be considered in the vulnerability analysis mandated by ESR 5 (and described in the section below), it is usually necessary to broaden the analysis to cover additional criteria mentioned above, which local social welfare and other regulations do not necessarily take into consideration. It is also important to recognise that some criteria in the list above may be socially or politically contentious (for example, consideration of sexual and gender minorities, slum dwellers or undocumented migrants) and in such situations tactful consultation will be needed with both government and communities.

Vulnerability analysis process

The following graphic shows an example of the vulnerability analysis process:



Pre-identification of potentially vulnerable people

The vulnerability analysis recognises the multidimensional character of vulnerability and can include the following steps:

- Identification of vulnerability criteria that are relevant in the context of the project: select and refine criteria from the list in the previous section that apply to project-affected communities. This should be done in the early stages (scoping) of resettlement planning and can be based on consultation with local community representatives including, as appropriate, members of vulnerable groups, government institutions (particularly those in charge of social welfare activities) and NGOs.
- Based on selected criteria, establishment of a vulnerability matrix to take account of the multidimensional character of the vulnerability. This could include a preliminary vulnerability scoring system allowing households to be ranked by vulnerability scores.
- Application of this matrix to household-level socioeconomic data gathered in baseline surveys to derive a list of people pre-identified as potentially vulnerable. Additional criteria relevant in the project context may be added at this stage to the vulnerability matrix if the surveys reveal that such criteria are relevant and important. Where detailed socioeconomic surveys are carried out across a sample of affected people (in the case of long linear projects, for example), the vulnerability information should be gathered on all affected people. This can happen in a further data collection step, such as at the negotiation stage.

Identification of vulnerable people

Based on the list generated through the vulnerability analysis process described above, the project should further interview all individuals or households identified as potentially vulnerable.⁵¹ These interviews will provide the basis for final validation and identification and should therefore be documented. Where possible, it is advisable that external stakeholders participate in and/or validate this final identification. This could include local government and their social welfare specialists, community representatives and NGOs.

Assistance to vulnerable people

Assistance to vulnerable people is meant to support them during and after the resettlement process to achieve desired outcomes in line with ESR 5's objectives. Such assistance should be devised to enhance the sustainability of housing conditions and livelihoods rather than generating additional dependency.

Depending on household circumstances and based on consultation with affected households, community representatives, government institutions and local NGOs⁵², these measures could include:

- Specific engagement modalities during the disclosure of compensation options to facilitate understanding (for example, to assist illiterate persons).
- Assistance or support in accessing available support services from state authorities or NGOs, including guidance in following protocols and legal procedures such as legalisation on tenure rights, resolution of inheritance-related issues and land title clarifications.

⁵¹ The interview should preferably be conducted in the household's home and with both spouses or partners if they are a couple. It should also be based on a formalised interview guide or questionnaire devised by a qualified social specialist who is familiar with local conditions.

⁵² Such as women's rights groups, NGOs advocating for the rights of people with disabilities or special needs, NGOs supporting refugees or IDPs and LGBTQ+ organisations.

- Enhanced and tailored communication tools to enable easier access to project-related information and timely updates, especially for groups that may face barriers in accessing standard channels of communication.
- Support in accessing or connecting with other programmes or services offered by third parties – such as non-project-related organisations or local welfare services – where such programmes can help address emerging or existing vulnerabilities among affected people.
- Food aid during a definite transition period.
- Assistance in securing alternative decent housing.
- Assistance in securing sustainable livelihoods (such as provision of agricultural land; provision of agricultural inputs and technical support; assistance in establishing small businesses; literacy and numeracy training; vocational training; direct or indirect employment and procurement linked to the project).
- Temporary healthcare support.
- Provision of equipment to mitigate disabilities.
- Specific accessibility provisions on resettlement sites to facilitate access for elderly individuals and people with disabilities.
- Where affected people are physically displaced, specific assistance during and after the moving period.
- Specific livelihood and social monitoring (for example, more frequent or longer) in the post-displacement period.

Livelihood and standard of living restoration for vulnerable people

ESR 5, paragraph 4, requires projects to “[assist] affected persons in their efforts to improve or at least restore their livelihoods and standards of living in real terms relative to pre-displacement levels”. These provisions are elaborated upon in Section 3.21 of this guidance note. The general requirement is restoration as a minimum. However, where the livelihoods of people living in poverty are affected, EBRD projects should seek meaningful improvement of these livelihoods. The EBRD requires improvement to the living conditions of physically displaced vulnerable people through the provision of adequate housing (including essential services and utilities) with security of tenure at resettlement sites (see section 3.20.4).

In addition, livelihood restoration planning must take account of vulnerability, with proposed activities matching the abilities and capacities of all, including the vulnerable. In some cases, it may be possible to transfer elderly people's eligibility for livelihood restoration to others in their households with the consent of the elderly, particularly where activities are proposed that the older persons may not wish to partake of or find it easy to undertake (such as IT training or language training).

Annex 5. Gender

Gender aspects in socioeconomic baseline surveys

The EBRD expects its clients to identify all types of potential gender impacts that a project may have on both workforce and communities, including gender-based violence and harassment (GBVH) risks. For high-risk projects, a gender impact assessment should be carried out as part of the ESIA process, which will not be limited to affected landowners/users. In such projects, the conclusions of the gender impact assessment regarding land use, income, livelihoods and resettlement issues should be taken into account during the design of the RP.

In projects where such a standalone gender impact assessment is not required, these gender aspects must still be considered during the baseline surveys that will be carried out for resettlement planning.

Socioeconomic surveys for land acquisition and resettlement are carried out using households as the investigation unit because, in the vast majority of cases, the whole household is affected and subject to displacement. However, when designing quantitative survey questionnaires, it is important to allow for data analysis regarding potential differential impacts on both men and women. Well-designed questionnaires will allow for additional household level analysis by disaggregating data by the gender of the household head, thus providing insights into the potential differences between women-led and men-led households. The analysis should also be deepened at an individual level to provide information on relevant differences between men and women. This approach will help to identify and design better-suited mitigation measures for individual or household needs, ensuring that women have a role in decision-making. Important insights and socioeconomic indicators such as differences in income, key livelihood streams including informal activities, land tenure arrangements, levels of education and skills, preferences for resettlement and livelihood options can be derived from such quantitative data collection and analysis.

When administering the questionnaire, efforts should be made to ensure that the female spouse is present. Enumerators must be trained accordingly, taking into account cultural sensitivities.

Quantitative household surveys can be supplemented with further investigations that will help to better understand local gender and social dynamics and support the design of more effective resettlement mitigation measures. This can be done by using qualitative research methods such as interviews, key informant interviews and/or focus group discussions. Focus group discussions should be carried out with women and men separately and look at the following aspects:

- Intra-household division of responsibilities and tasks (such as earning cash income, farming, dealing with animals, children's education and care, elder care and domestic chores).
- Differences between males and females in livelihood streams and ownership of affected assets, and differential impacts of the land acquisition on each of these streams and/or assets.
- Intra-household management of money:
 - Who manages cash and/or bank accounts?

- Where do the male and female earn cash income independently from each other and how is that managed?
- Who caters for the needs of children (school fees, clothes, health expenses and so on)?
- How are decisions made about significant household expenses (such as house repairs or purchasing a vehicle)?
- How are women's aspirations handled within the household?
- When times are tough, how are money matters handled within the household?
- Potential for the project to exacerbate differences in income between men and women.
- Potential for the project to exacerbate GBVH risks (see below).
- Potential expectations and preferences for resettlement mitigation measures.

These investigations require tact, experience and discretion. Interaction with women and girls through focus group discussions is often (but not necessarily) best handled by female social specialists.

The potential GBVH risks in relation to the resettlement process should also be assessed. This is important as the delivery of cash compensation within a land acquisition programme may result in increased risks of GBVH. It is also critical, where relevant, to assess and avoid GBVH risks related to surveys themselves as the disclosure by women of information to outsiders may also result in GBVH. A resettlement-related GBVH risk assessment should be conducted in line with the guidance on addressing GBVH issued by the EBRD, IFC and British International Investment (previously known as CDC).⁵³

Gender aspects of tenure

Understanding land tenure arrangements is a key aspect of socioeconomic baseline investigations undertaken in preparation of land acquisition and resettlement. Land tenure arrangements are often detrimental to women due to certain traditions, even where in theory the law gives males and females equal rights. The following should be investigated from both a legal and social perspective:

- Legal aspects:
 - What are the legal rights to land of men and women?
 - Does the law allow for joint ownership of assets by both spouses?
 - Are assets acquired by married couples automatically registered in both names?
 - What legal provisions are there around separation, divorce and inheritance (who gets what in the event of a divorce or a succession)?
 - How do the above provisions apply, by law, to informally held assets (if they apply at all)?
 - What are the rights of men and women to other household assets (such as buildings, livestock, agricultural equipment, furniture, household items)?
- Social aspects and customs:
 - How is the law applied in practice?
 - Does custom have the force of law?

⁵³ See EBRD, IFC and CDC (2020).

- What inheritance regimes apply to informally held assets, particularly land and immovable property (check the respective rights of the deceased's spouse and children)?
- What provisions are applicable to divorces?
- What is the status of polygamist households?
- What customary dowry regimes exist, where applicable, and what implications do they have for ownership of land and other assets in the event of succession, divorce or separation?

This type of information can be gathered using qualitative methods such as focus group discussions with separate groups of men and women, and interviews with experts and community elders.

Gender aspects in consultation

By mixing women and men in the same consultation events, gender specificities may end up being overlooked as men could be more vocal and suppress women's specific views. In specific cultural contexts, it is therefore important to plan for separate consultation opportunities with males and females, in addition to general meetings where people of all genders attend. Various methods can be used, from gender-specific community meetings to focus groups and individual interviews, as well as meetings with women's groups and associations. The outcomes of these events should be adequately processed so that the different views of both genders are taken into consideration in devising compensation and livelihood restoration entitlements. In addition, consultation times and arrangements should be conducive to women's presence and participation (for example, allowing children to be present or making sure that meeting times do not coincide with times when women may be undertaking household activities). Lastly, the involvement of trained female engagement facilitators is a great help in creating an environment where women feel comfortable expressing themselves.

Gender aspects in devising compensation entitlements

Compensation for land and other assets should take into account that men and women may have different preferences. For example, experience demonstrates that cash compensation tends to be preferred by men, while women often prioritise access to adequate housing, livelihood security and their children's education. It is therefore important that compensation entitlements be consulted upon with representatives of both genders and be based on a comprehensive gender analysis, as mentioned in the sections above.

Where this is legally and culturally possible, titles to resettlement properties should be established in the name of both spouses and cash compensation should be paid into joint accounts. Where there are legal or cultural hurdles to achieving this, the project should adopt a best effort approach, for example by proposing on a systematic basis that titles be established in both names and seeking to convince all relevant parties that this is in the best long-term interest of families.

The potential adverse effects of cash compensation on women and children should be mitigated by appropriate awareness and training activities, including access to financial training.

Gender aspects in livelihood restoration

As reflected in the section above on baseline surveys, livelihood streams are often different for women and men. For example, males could take care of open-field agriculture while women handle livestock and backyard gardening. Secondary or seasonal activities could also be different. In many areas, gathering (such as of berries or mushrooms) is a female activity, while fishing or hunting are male activities. Women and men

also tend to engage in different small business activities. These gender-specific livelihood streams will be affected (or not) in different ways by land acquisition or restrictions to natural resource access.

It is critical to understand these differential impacts, gender-specific constraints and respective gender responsibilities when devising livelihood restoration plans. While there may be common points, livelihood restoration activities proposed to representatives of each gender may also be different depending on the cultural, social and economic context, as well as on the abilities and wishes of each gender. It is therefore essential that separate consultation take place in line with the indications of the section above in this annex.

Annex 6. Valuation

Key principles and definition

Clients must ensure compliance with the ESR 5 requirement of compensating for loss of assets at full replacement cost (including in cases of government-led land acquisition), where the valuation is conducted by the relevant authority (using an accredited valuer) or determined by a court decision. If this valuation does not meet the EBRD requirement of compensating for loss of assets at full replacement cost, a specific process will have to be put in place to arrive at a satisfactory value. Clients should proactively engage with state institutions to discuss and agree on the valuation methodology in a timely manner. Where necessary, clients should also consider involving an independent, qualified expert to support or validate the state-led valuation process.

Full replacement cost is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. In addition, where residential structures are concerned, the full replacement cost method must yield a value that is sufficient to purchase a residence meeting adequate (or decent) housing criteria.

The EBRD will review valuation methods and figures as part of its due diligence and monitoring processes. If the valuations are not aligned with the full replacement cost, this may result in delays in project approvals. It is therefore critical to address this issue from the onset to avoid such risks.

Replacement cost in functional real estate markets

Where real estate markets are functional (multiple transactions reflect adequate supply and demand), replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Valuation in such cases is usually based on the comparative method, whereby the property to acquire (or its constitutive elements – land, buildings, trees and so on) is valued by comparison with similar transactions in comparable areas. In applying this method, EBRD projects should be mindful of the following:

- The number of transactions should be sufficient to create a meaningful baseline.
- Asking prices and real transacted prices may be different, and as a result using asking prices in the comparative method (such as real estate websites) may yield biased results.
- Properties used as benchmarks should be comparable in all respects (location, economic potential, condition and so on).
- Transactions should be recent and reflect macroeconomic changes experienced in the recent past that may affect the price of real estate.
- In some jurisdictions, transactions may be underdeclared to tax authorities to minimise taxes. Using tax information to create a baseline of comparable transactions may therefore be misleading and the comparison should seek to estimate the higher price actually paid rather than what was declared.

Where land acquisition takes place within a state-led project, EBRD projects should make sure that valuation is undertaken using prescribed mandatory methods by officially certified valuers. Valuation standards established by the International Valuation Standards Council can also be considered.

Experience shows that in EBRD countries of operation, functional real estate markets typically exist in larger cities but not always in rural areas, where transactions are often too few to generate reliable comparative data.

Replacement cost in formative or non-functional real estate markets

Where real estate markets are in a formative state or where they do not exist, the approach to full replacement cost is generally more complex as the comparative method outlined above cannot be used.

Full replacement cost may in these situations be determined through alternative means, such as one or a combination of the following:

- Land:
 - Dedicated surveys: use preferably focus group discussions and key informant interviews to ask locals about typical prices (this often requires tact and a good understanding of local culture and values in relation to land and money).
 - Calculation of output value for land or productive assets (the so-called “income” valuation method).
- Structures: a bill-of-quantities based methodology can be used to calculate the undepreciated value (“as new”) of replacement materials and labour for the construction of structures or other fixed assets, with no deduction for depreciation or taxes, for example.
- Trees and crops:
 - Annual crops: the full replacement cost is the typical yield observed in the area multiplied by the average or median selling price (variations in time need to be considered). No deductions are made for expenses or others.⁵⁴
 - Perennial crops: the full replacement cost is the sum of:
 - The loss of income during the whole period required to re-establish the affected perennial crop to its current level of production. This is usually calculated by integrating the lost harvest’s value at the local selling price with the time needed to re-establish the tree or plant to its previous productivity. This calculation usually requires data to be gathered from qualified agronomists and/or from the affected farmers.
 - The direct cost of inputs (labour, fertilisers and so on) during that period of time.

Should future or current value be considered?

There are situations where affected people claim that their properties should be valued taking into consideration the value increase brought about by the project itself or by a forthcoming change in land categorisation. For example, in a pipeline project that affected agricultural land in an area neighbouring a large city and likely to be soon developed as suburban, farmers claimed that their land should be valued as construction land rather than agricultural land, although it had not been reclassified as such by the relevant authority. Similar claims can arise where infrastructure, such as roads, is built that might increase the value of

⁵⁴ Entry into land should be planned such that annual crops can be harvested ahead of actual land take.

adjacent land. Lastly, a project may cause a change in land cadastral classification (for example, from agricultural to construction or industrial) that could in turn trigger a notable increase in land value.⁵⁵

Legislation and/or practice in most countries consider that land should be valued at its current value, not taking into consideration potential opportunity losses. Where such issues arise, the EBRD recommends considering national benchmarks for similar situations (including the engagement of both government officials and valuers), carrying out checks of how similar questions have been addressed in other projects, and defining project policy accordingly. Whatever the avenue, the outcome should always meet the full replacement cost requirement.

Valuation of inadequate housing

In cases of physical displacement, full replacement cost must be at least sufficient to enable the purchase or construction of housing that meets adequate housing criteria. This is particularly relevant to projects affecting poorly built, inadequate residences in slums, but can also apply to projects in rural or urban areas affecting old, traditional houses that do not meet current building standards such as those associated with energy efficiency or earthquake resilience.

The best way to approach this is usually to propose project-built resettlement houses that are designed to meet all applicable national standards.

However, where resettlement is not possible and compensation must be in cash, the amounts should be such that the minimum paid will always allow the purchase of adequate housing that meets local standards. The usual way to achieve this outcome is to provide for a minimum amount per square metre that has been calculated to allow adequate housing criteria and national building standards to be met, as well as to align with the value of what is actually available on the market. People with affected inadequate or non-compliant housing will receive this amount so that they can replace it with adequate and compliant housing. Note that for slum dwellers and informal users, the EBRD does not necessarily mandate that they be provided with alternative housing under a full ownership arrangement as detailed in Section 3.20.

Further detail on adequate housing is provided in Section 3.20.4.

Transaction costs

Transaction costs are all costs that the affected owner incurs as a result of the involuntary transaction (whether negotiated or resulting from a compulsory process) that they would not have incurred if the project had not taken place. These costs include:

- Direct transaction costs such as registration taxes, inheritance taxes, notary fees and the cost of establishing power of attorneys.
- Indirect transaction costs in reasonable lump-sum amounts such as transport, telecommunication and value of time lost.
- Taxes that may be incurred on top of direct transaction costs as a result of the transaction, including income taxes.

⁵⁵ In several EBRD countries of operation, mining or industrial projects can only be permitted once this change in land classification has taken place. This typically requires updating spatial plans. The land then becomes classified as industrial before it can be acquired. In such cases, although the initial purpose and classification of the land are clearly agricultural, law and practice would require compensation at the value of industrial land.

- The cost of processes that an informal user may have to incur to register their rights to land.

In some EBRD countries of operation, cadastral registries are not necessarily up to date, particularly in remote rural areas. When a project starts, it is important to check the status and currency of cadastral data at the resettlement planning stage. Where it appears that these data are outdated, the project should engage relevant authorities and should consider supporting the update of the cadastre, including procuring licensed surveyors to do the fieldwork and paying registration fees. Experience shows that doing this proactively is well worth the time and money invested as it saves considerable time in the long term, while also removing a burden from affected people and often supporting the project's "social licence to operate".

Updating full replacement cost during the project cycle

For projects that involve multiple transactions over a period of more than one year, it is necessary to review compensation rates on a regular basis, typically once a year unless circumstances such as currency devaluation or high inflation demand otherwise.

The rate update should involve qualified valuers reviewing applicable rates against current market conditions. This is particularly necessary for crops and trees, as agricultural prices can be quite volatile. It should also be carried out, where applicable, for land and structures, given that the cost of construction can be quite volatile too as it is linked to cement and steel, which can experience significant fluctuations.

Any updated rates should be publicly disclosed, with clear conditions of applicability (from what date, for which period of time). The initial RP does not necessarily have to be updated accordingly; however, it is important that contingencies in the initial budget are sufficient to accommodate such updates and that the RP establish the frequency and arrangements for such updates.

For linear projects, consistency of rate calculation methodology over the whole length of the project is also important to avoid discrepancies between neighbouring administrative units.

Loss in value of land not subject to project land acquisition

There are cases where people whose properties or land are not to be acquired claim that the project caused a diminution in value (for example, due to landscape or environmental impacts such as noise). This could be the case for projects with landscape impacts such as overhead transmission lines, for example, and is particularly relevant to areas with high tourism potential where the value of a good view can be very high.

ESR 5 does not specifically address such issues. These matters can sometimes be considered through the impact assessment process, for example with mitigants for noise such as the double glazing of windows in residential areas. They can also be considered on a case-by-case basis through the grievance management process, assessing the merit of the claim and taking local legislation, jurisprudence and practice into account. Where these issues are assessed as likely at the project planning stage (for example in tourism areas), the EBRD will require that a methodological approach be prepared and presented in the RP to enable consistency and fairness of treatment, rather than have clients adopt ad hoc processes that could result in mitigation measures or compensation only for more vocal or better-connected individuals impacted by the project.

Valuation of restrictions to land

Some projects base their land acquisition strategy on restrictions rather than outright purchase. This is notably the case with many pipelines and transmission lines. Lands above and around the pipeline or under

the conductors will remain in the ownership of the owner, albeit with restrictions such as prohibitions on erecting structures or planting high trees, with the owner then compensated for these restrictions. This can also be the case in sanitary protection zones established by the local regulator around potentially hazardous industrial sites, airports or water intakes from ground or surface water, for example, or in similar safety or protection zones.

In most jurisdictions, there is typically no mandatory or even broadly accepted methodology for valuing these restrictions. The project must assess the actual impacts and devise a compensation strategy that addresses the full extent of the impacts and considers local precedents, where they exist. For example:

- If people living on a formal or informal basis in an area designated as a sanitary protection zone are required to move out as a result, they should be offered a full resettlement package in line with ESR 5.
- Where land affected by a restriction is constructible⁵⁶ and the project-induced restriction will prohibit construction, affected people could be offered the difference in value between construction and agricultural land (both estimated at full replacement cost) on those patches of land that are actually potentially constructible, even if they have no immediate plans to build.
- Where farmers are prohibited from growing trees under a transmission line in an area where trees are cultivated, they should be offered compensation for this restriction based, for example, on the net present value of the loss in income.

Valuation of businesses

The valuation of an affected business could comprise four components, as applicable:

- Any fixed asset (such as land or structures) owned by the business and affected by the project will be valued at full replacement cost according to rules similar to those applying to any land or structures also affected by the project.
- Professional equipment that cannot reasonably be moved should also be valued at full replacement cost.
- Loss of income during the transition period should be offset through cash compensation if legally possible or through other assistance, based on records and/or tax returns for formal businesses. For informal businesses, a fair assessment of earnings should be made jointly with the owner and/or operator and targeted assistance should be made available in cash or other forms.
- Employees should be provided with targeted assistance in respect of any work stoppage resulting from the impact to the enterprise so that their livelihoods are maintained during that suspension of income, and/or their termination or suspension of employment should be addressed in compliance with ESR 2. Where there are no unemployment schemes that can handle such assistance, the resettlement process should take this into consideration. Employees of informal businesses, employees without a work contract and individual entrepreneurs – whether formal or informal – who depend significantly on the activity of the affected business (their identification may require use of a census and/or socioeconomic surveys) should also be provided with assistance in cash or in kind as their livelihoods will be affected. Where the enterprise cannot be re-established for whatever reason, compensating employees with six

⁵⁶ “Constructible” in this instance should be understood as including both land that is officially categorised as construction land and land that actually bears constructions, even if it is not categorised officially as construction land.

months of lost income is generally adequate. Assistance with re-employment, including training, can also be proposed.

Where a business is operated by a person who is different from the owner, agreements may be needed to share compensation according to the respective losses of the different parties.

Where employees are to be provided with targeted assistance in respect of impacts on their employment, the EBRD recommends direct payment to the employee rather than indirect payment through the business owner, where this is legally possible.

For large formal businesses held by several shareholders, specific legal and financial advice may be needed to mitigate legal risks to the project associated with the payment of compensation.

For very small informal businesses (such as a farmer using a roadside stall to sell fruit), the best solution is to facilitate their swift relocation to minimise the economic disruption.

Where activities are highly specific (for example, winemaking in designated areas, or fishing), business valuers may need to be supported by experts in the field.

How to avoid risks of inadequate valuation

Where LAR is state-led, clients – with support from the EBRD and potentially from valuation experts – should engage the agency in charge of valuation early in the LAR planning process around the following points:

- The identification of valuation methodologies in use for different categories of affected assets and the assessment of potential gaps (such as depreciation coefficients, inadequacies in categorisation of lands, income methods, and coefficients in associated calculation formulas including time period and discount rate).
- Opportunities to deviate from usual or accepted valuation methodologies to align with replacement cost requirements, for example:
 - Refrain from use of the income method for valuation of agricultural land⁵⁷ (although expropriation agencies in many jurisdictions tend to favour this method,⁵⁸ it is not necessarily an explicit legal requirement to use it and it can be replaced with the comparative method, which is much closer to the replacement cost requirement).
 - Change coefficients used in calculation formula (such as the discount rate used in the income method).
 - Update baseline prices used in structure or land compensation rates to current economic conditions, particularly where a bill of quantities is used for structures that may be grossly outdated.
 - Eliminate depreciation from the calculation of compensation for structures.
 - Take into consideration the whole productive life for trees.
- Opportunities to complement compensation with project-specific allowances (such as disturbance, transition, moving and livelihood restoration), allowing top-ups to compensation without breaching the law.

⁵⁷ Known to yield inadequate results.

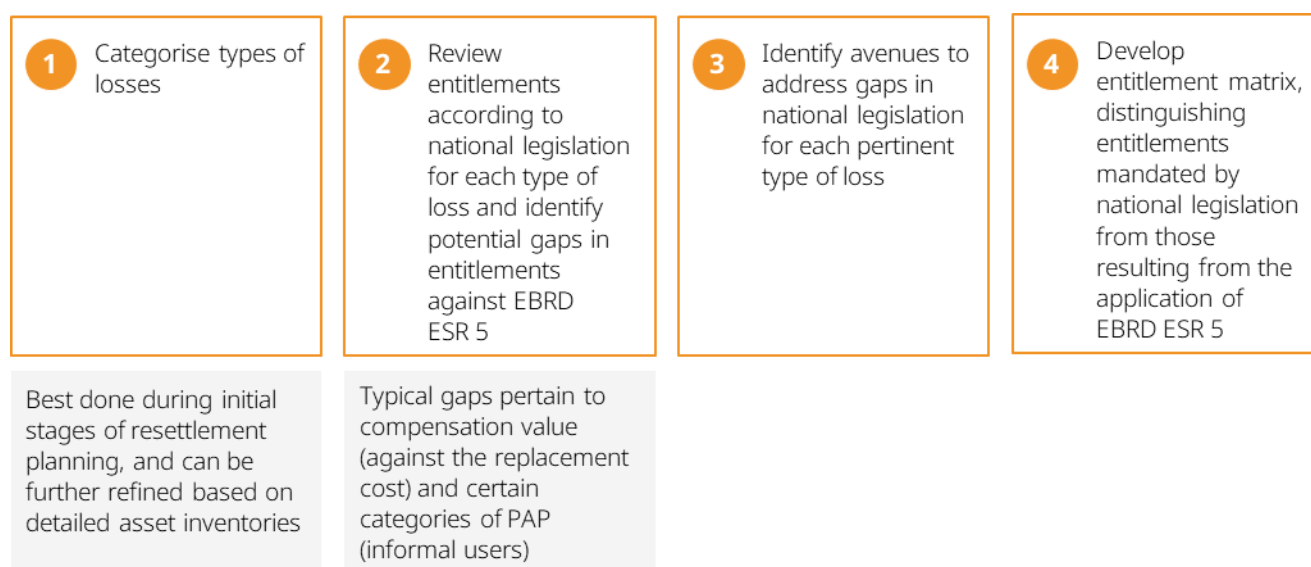
⁵⁸ Mainly because it is simpler to implement.

In PPP or private-sector projects with state-led LAR, the client should offer to pay for additional costs resulting from the use of valuation methodologies meeting the replacement cost requirement.

Annex 7. How to develop an entitlement matrix

Overview

This Annex aims to describe the process for developing an entitlement matrix. The following chart provides an overview of the key steps:



Step 1: Categorisation of losses

List the potential loss categories as follows:

- Land:
 - agricultural (potentially with subcategories as the context demands, such as irrigated/non-irrigated, grazing/arable, with categories of potential losses as defined in national legislation if relevant)
 - urban (also with subcategories depending on potential loss and location)
 - industrial/commercial
 - in addition to the categories above, land can also be categorised by regime of tenure (for example, state land, community or municipal land, collective land, private land).
- Crops:
 - perennial (trees)
 - pluri-annual (for example, tubers, some forage crops)
 - annual.
- Residential structures:
 - can be classified by soundness (perennial or not), quality of construction and level of finish.

- Non-residential structures:
 - can be classified by type of usage (for example, sheds, garages, barns, stables).
- Businesses:
 - formal
 - informal.⁵⁹
- Places of cult, monuments, graveyards and graves.
- Public amenities (such as schools, health facilities, sport facilities, administrative buildings).
- Natural resources (such as forests, water bodies, grazing areas, beaches, other natural areas).

Step 2: Mandated entitlements per national legislation

For each relevant category of loss, compensation requirements as mandated in national legislation should be identified. For example:

Category of loss	Entitlement per national legislation	Legal reference	Gap
Agricultural land of third agronomic category in district of X	€1.34 per m ²	Decree number 09-02-334 of 26 February 2009 of the Council of Ministers.	Valuation research suggests that the current market value is close to €3 per m ² . In addition, the decree does not accommodate for transaction cost.
Residential houses	Valuation by certified valuer at market value	Valuation methodology described in decree number 12-05-378 of 12 May 2012 of the Council of Ministers (average a minimum of five analogue transactions in the district and use “physical” (age depreciation) and “locational” coefficients as defined in the decree).	Age depreciation is deducted from the value, thus the valuation methodology does not meet the replacement cost requirement. No support with moving. No provisions for in-kind resettlement.
Annual crops	No specific compensation	Not prescribed in legislation. Practice is that annual crops are not compensated.	If land is entered into before farmers can harvest their crop, they experience a loss that is not compensated.

Step 3: Addressing gaps

For each gap, a bridging measure that is implementable and can be acceptable to all parties should be identified. For example:

Category of loss	Gap	Bridging measure
Agricultural land of third agronomic category in district of X	Valuation research suggests that the current market value is close to €3 per m ² . In addition, the decree does not accommodate for transaction cost.	Separate compensation for land into two parts: <ul style="list-style-type: none"> • The mandated value of €1.34 per m², which is paid in line with national legislation. • An additional “project-specific compensation” of €1.66 per m² to reach replacement cost.

⁵⁹ Employees and their employment status may have to be considered.

Category of loss	Gap	Bridging measure
		Seek government acceptance of this rate and ensure it is included in an RP formally accepted by government.
Residential houses	Age depreciation is deducted from the value, thus the valuation methodology does not meet the replacement cost requirement. No support with moving. No provisions for in-kind resettlement.	Devise an in-kind resettlement option, whereby physically displaced households can access a replacement property similar or better than the affected one. Offset depreciation by increasing compensation for buildings by 20 per cent. Add a moving allowance of €3,000 per household.
Annual crops	If land is entered into before farmers can harvest their crop, they experience a loss that is not compensated.	Annual crops that are lost because the farmer cannot harvest them before entry into land by the project will be compensated at a rate to be calculated based on average market price and average yield in the area.

Step 4: Entitlement matrix

The entitlement matrix derives logically from the gap analysis, as follows:

Category of loss	Entitled person	Compensation
Agricultural land of third agronomic category in district of X	Registered landowner	Compensation at €3 per m ² , divided into two parts: <ul style="list-style-type: none"> • The mandated value of €1.34 per m² in line with national legislation. • An additional “project-specific compensation” of €1.66 per m² to reach replacement cost.
Residential houses	Owner of the house	Compensation at full replacement cost without depreciation (government rate plus 20 per cent) <i>and</i> Moving allowance of €3,000 per household <i>or</i> Resettlement to a similar property acceptable to affected household and purchased by the project <i>and</i> Moving allowance of €3,000 per household.
Annual crops	Owner of the crop	Compensation per appended table of rates for each crop in case farmer is unable to harvest crop before entry into land.

Annex 8. Monitoring and evaluation

Internal monitoring and reporting to the EBRD

Internal monitoring is meant to detect gaps early and thereby ensure timely correction. If non-compliances or lack of performance of certain activities are identified during a given reporting period, they should be listed and a corrective action should be assigned for each identified gap. In the following reporting period, there should be a clear explanation of how these non-compliances were addressed and are being closed.

As part of regular project monitoring obligations arising from ESR 1, paragraph 34, the client must submit environmental and social monitoring reports to the EBRD. Where ESR 5 is triggered, these reports must include a chapter on land acquisition and resettlement. The frequency of submission is normally annual, but for projects with significant displacement impacts the EBRD may require more frequent reporting (to be specified in the ESAP and/or loan agreements). The chapter of the environmental and social monitoring report dedicated to land acquisition and resettlement (or the standalone internal land acquisition and resettlement monitoring report, as the case may be) should be structured as follows:

- Progress of land acquisition and resettlement activities during the monitoring period, with relevant numerical indicators such as number of households moved or compensated, compensations paid in escrow accounts, progress of implementation of livelihood restoration activities.
- Description of efforts to avoid and minimise displacement that may have taken place during the monitoring period.
- Summary of consultation events and outcomes.
- Description of any issues encountered and how they were resolved.
- Summary of grievances received and how they were resolved, including how the project met commitments related to grievance processing (particularly average and median time to resolve a grievance).
- Livelihood restoration activities during the monitoring period.
- Activities meant to support vulnerable people.
- Gender-sensitivity review of activities implemented during the monitoring period.
- Description of resources mobilised to implement land acquisition, resettlement and livelihood restoration activities.
- Key results of internal monitoring (and external if applicable), including how findings of external compliance reviews (if relevant) were followed up upon.

Land acquisition and resettlement execution report

The client must submit a land acquisition and resettlement execution report to the EBRD upon completion of land acquisition and resettlement activities (that is, completion of compensation delivery and processing of grievances, not necessarily including all ongoing livelihood restoration activities, which may span over a number of years after all compensation has been delivered).

The report should be structured as follows:

- Summary of final project impacts (both physical and economic displacement).
- Summary of key principles – including cut-off date and entitlements – guiding the resettlement plan.
- Description of efforts to avoid and minimise displacement.
- Summary of consultation events and outcomes, including how they influenced entitlements and other features of the land acquisition, resettlement and livelihood restoration process, and any provisions made to ensure the inclusion of women and vulnerable persons in engagement activities.
- Description of the compensation delivery process, including cash and in-kind compensation as applicable.
- Livelihood restoration activities and their interim results.
- Activities meant to support vulnerable people.
- Gender-sensitivity review of activities.
- Description of any issues encountered and how they were resolved.
- Summary of grievances received and how they were resolved, including a list of any grievances and court cases pending at the date of the report's submission.
- Description of resources mobilised to plan and implement land acquisition, resettlement and livelihood restoration activities.
- Key results of internal monitoring (and external if applicable), outstanding issues and lessons learned.

External compliance reviews

Compliance reviews are meant to check whether the implementation of land acquisition and resettlement complies with ESR 5, the RP and with local legislation. Such reviews can be integrated into a broader independent monitoring scope that covers compliance with all ESRs ("independent environmental and social consultant" or similar denominations) as mandated in certain cases in line with ESR 1, paragraph 40. Compliance reviews are mandated for higher-risk projects (for example, those with significant displacement impacts).

Such reviews are an ongoing exercise covering planning and implementation until the completion audit (if there is one) or, if no completion audit is anticipated, until the compliance reviewers declare that resettlement and compensation are complete. Compliance reviews typically take place between once a year and once a quarter for the most sensitive projects. Where compliance reviews are expected, the client is expected to recruit an independent reviewer acceptable to the EBRD based on a scope of work to be submitted for approval by the Bank. Compliance reviewers should have unlimited and independent access to affected persons for interviews and consultation, as well as to other stakeholders, and be able to carry out their investigations without interference from the project.

The need for compliance reviews is assessed by the EBRD during due diligence and will be sanctioned in the ESAP.

Compliance review reports are submitted to the EBRD and may be publicly disclosed. EBRD staff may join compliance reviews as part of the Bank's own monitoring activities.

The EBRD has developed a specific terms of reference for such exercises.

External completion audit

A completion audit is required for higher-risk projects, particularly those involving significant displacement impacts. The Bank will determine and approve the timing and scope of the audit, which will be specified in both the RP and ESAP.

The primary purpose of the completion audit is to verify that the requirements of ESR 5 have been fully met, and that affected persons' livelihoods have been restored or improved in accordance with project commitments and ESR 5 requirements. The audit may be conducted only after the Bank has reviewed and approved the land acquisition and resettlement execution report. The audit will be conducted by a qualified independent expert and the audit report will be submitted to the EBRD and may be publicly disclosed.

The key objectives of the completion audit are:

- To verify that all entitlements and commitments described in the RP have been delivered.
- To determine whether measures have been effective in restoring or enhancing PAPs' living standards and livelihoods, including both men and women, as well as vulnerable people.
- To check on any grievances that may have been left outstanding.
- To check that any physically displaced people are living in adequate housing with security of tenure.
- To identify any corrective actions necessary to achieve completion of the RP commitments, particularly additional livelihood restoration should livelihoods of certain groups be demonstrated not to have been restored.

The completion audit should be conducted by an independent expert in coordination with project teams. It is expected to focus on livelihood restoration and it should build on previous internal and external monitoring and the land acquisition and resettlement execution report. It will generally include a comparison of the post-resettlement economic situation of affected households with the baseline data. Where a large number of households have been affected, a representative sample can be used. This comparison usually requires a certain period of time to have elapsed since compensation was delivered for livelihood measures to have been effective. As a result, completion audits are typically undertaken a few years after compensation was delivered and resettlement assistance and livelihood restoration activities are completed, within the validity period of the loan agreement.

The completion audit report should present conclusions on livelihood improvement or restoration and identify any corrective measures necessary to achieve livelihood restoration (as a minimum) of displaced households. The scope, timing and implementation arrangements for the completion audit should be presented in the RP, along with clear completion criteria that the project will be expected to meet.

Annex 9. Resettlement plan – sample outline

Note 1: this is presented as general guidance and should be adapted to the specificities of the project context. It applies to projects in categories (ii) to (iv) of ESR 5, paragraph 51. The EBRD has developed a specific terms of reference for the preparation of resettlement plans that can be made available to projects.

Note 2: the EBRD appreciates conciseness. The expected size of an RP for a project with significant impacts is 50-100 A4 pages, not including annexes. Bulky and disorderly documents will not be reviewed and subsequently will not be accepted. The RP's executive summary should provide an adequate overview in approximately 5-12 pages.

Note 3: as an action plan referred to in the ESAP, the RP is a project commitment. An RP is not a study that issues “recommendations”. If an action is included in the RP, it becomes a firm commitment that must be implemented and against which the project will be monitored by the EBRD.

Note 4: projects with limited impacts are addressed in Annex 10.

Executive summary

1. Scope of the resettlement plan: introduction
 - 1.1. Scope and contents of this report
 - 1.2. Key definitions
2. Project description and project potential impacts
 - 2.1. Project objectives, location, rationale and benefits
 - 2.2. Key project components (should be brief and can refer to the ESIA for further details)
 - 2.3. The project footprint and its associated land impacts (with maps, description and photographs as relevant)
 - 2.4. Avoidance and minimisation of project displacement impacts (should explain the iterative process of changing and adapting the design to avoid and minimise displacement impacts, and the outcomes of such a process, with tabular and cartographic illustration as relevant)
3. Legal framework (to be adapted to the context in the jurisdiction)
 - 3.1. The constitution (or any other fundamental law, typically establishing high-level principles related to public interest and expropriation versus protection of the right to private property)
 - 3.2. The expropriation law (review of principles and processes)
 - 3.3. Land tenure regime (including customary and informal regimes as relevant)
 - 3.4. Legalisation processes (if relevant)
 - 3.5. EBRD policy on involuntary resettlement (brief summary of ESR 5 and this guidance note)
 - 3.6. Gap review (comparison of local legislation to EBRD policies and identification of potential gaps, if any, with proposed way forward to meet ESR 5)

4. Principles, objectives and processes

4.1. Key principles and objectives (should spell out in a formal manner and at a high level, without details, the key commitments the project is making regarding compliance with ESR 5)

4.1.1. Avoidance of forced evictions

4.1.2. Cut-off date and eligibility

4.1.3. Compensation at replacement value, in-kind compensation wherever possible

4.1.4. Livelihood restoration wherever livelihoods are affected

4.1.5. Consideration of vulnerable people

4.1.6. Consultation around grievance mechanisms

4.1.7. Monitoring and external reviews

4.1.8. Key principles for implementation arising from agreements with government or law, particularly where government is playing a mandatory role in implementation

4.2. Process overview

4.2.1. Negotiated settlements (outlining the process to arrive at a negotiated agreement – collective then individual negotiations, offers, refusals, acceptance, formalisation of agreement)

4.2.2. Process in case no agreement is reached

- With expropriation (formalised ownership)

- Without expropriation (informal occupation)

5. Baseline of affected assets and affected persons

5.1. Census of affected assets and affected households

5.1.1. Methodology

5.1.2. Implementation

5.1.3. Results

5.2. Socioeconomic baseline surveys

5.2.1. Methodology

5.2.2. Implementation

5.2.3. Results (including livelihoods, social fabric, culture, relevant socio-political aspects)

5.3. Affected land

5.3.1. Estimates of areas potentially required

5.3.2. Categorisation of land needs (permanent, temporary)

5.3.3. Land tenure regimes

5.4. Affected structures

5.4.1. Estimates of numbers of affected structures

5.4.2. Categorisation of structures

5.4.3. Structure ownership regime

- 5.5. Affected businesses
 - 5.5.1. Estimates of numbers of affected businesses
 - 5.5.2. Categorisation of businesses
 - 5.5.3. Business ownership regime
- 5.6. Affected people
 - 5.6.1. Estimates of numbers of affected households and persons
 - 5.6.2. Economic and physical displacement
 - 5.6.3. Summary socioeconomic description and categorisation of affected persons
 - 5.6.4. Compensation preferences
- 6. Resettlement and compensation strategy
 - 6.1. Entitlements
 - 6.1.1. Eligibility to compensation
 - 6.1.2. Entitlement matrix
 - 6.2. Valuation of affected assets
 - 6.2.1. Land
 - 6.2.2. Structures
 - 6.2.3. Crops and trees
 - 6.2.4. Businesses
 - 6.3. Resettlement packages (for projects with physical displacement – category (ii) of ESR 5, paragraph 51)
 - 6.3.1. Reconstruction (by project or PAPs' own, arrangements for reconstruction)
 - 6.3.2. Selection of resettlement site (or sites as applicable), including comparison of options, consultation around site identification and selection
 - 6.3.3. Resettlement site development (planning standards, site planning with relevant drawings, community facilities, utilities, plot allocation within the site)
 - 6.3.4. Housing design (consultation around design, principles, selected construction materials, selected designs with relevant drawings)
 - 6.4. Cash compensation
 - 6.4.1. Rates for all different types of assets
 - 6.4.2. Payment process
 - 6.4.3. Cash risk mitigation (including financial training, payment in instalments or any other relevant mitigations)
 - 6.5. Incremental land acquisition (ongoing acquisition of small pieces of land during project construction and operations, beyond the scope of this RP)
 - 6.5.1. Scope
 - 6.5.2. Processes (including consultation)

- 6.6. Gender-sensitivity assessment on proposed compensation entitlements (gender analysis and mitigation of any identified gender risks)
- 7. Livelihood restoration and improvement
 - 7.1. Principles (eligibility, key aspects of livelihood restoration and improvement entitlements)
 - 7.2. Restoration and improvement of land-based livelihoods (replacement land and agricultural improvement packages)
 - 7.3. Restoration and improvement of non-land-based livelihoods (employability enhancement, project procurement and employment, support in SME creation and development and so on)
 - 7.4. Training
 - 7.5. Specific aspects related to gender
 - 7.6. Specific aspects related to vulnerability
 - 7.7. Partnerships and linkages for planning and implementation of livelihood restoration and improvement
- 8. Consultation and disclosure
 - 8.1. Main results of consultation carried out for preparing the RP
 - 8.2. Engagement plan for further stages
 - 8.3. Disclosure
- 9. Grievance management and redress system
 - 9.1. Key principles
 - 9.2. Registration of grievances
 - 9.3. First tier of amicable settlement
 - 9.4. Resort mechanism and mediation
 - 9.5. Appeal to court
- 10. Vulnerable people
 - 10.1. Vulnerability analysis
 - 10.1.1. Vulnerability definition and criteria in the context of the project
 - 10.1.2. Vulnerability matrix (with scoring of criteria)
 - 10.1.3. Consultation around vulnerability criteria
 - 10.2. Pre-identification of vulnerable people
 - 10.3. Potential activities in assistance to vulnerable people
 - 10.4. Arrangements for implementation and budget of assistance to vulnerable people
- 11. Monitoring and evaluation
 - 11.1. General objectives of monitoring and evaluation
 - 11.2. Auditing and monitoring during implementation
 - 11.2.1. Scope and content – internal activities
 - 11.2.2. Scope and content – external reviews

11.2.3. Indicators, including key performance indicators

11.2.4. Reporting

11.3. Completion audit

11.3.1. Objectives and scope

11.3.2. Success/completion criteria

11.3.3. Timing and implementation arrangements for completion audit

12. Implementation responsibilities and funding

12.1. Implementation responsibilities

12.2. Budget and arrangements for funding

12.3. Time schedule (including review of compatibility of resettlement schedule with overall project construction and development schedule)

12.4. Change management

Annex A. Detailed results of the census and socioeconomic survey

Annex B. Census dossier and methodology

Annex C. Template of a claim registration and follow-up form

And any other relevant annexes (photographs, maps, drawings and so on)

Annex 10. Resettlement plan for projects with limited impacts – sample outline

Note 1: this is presented as general guidance and should be adapted to the specificities of the project context. It applies to projects with limited physical or economic displacement impacts – category (i) as defined in ESR 5, paragraph 51.

Executive summary

1. Scope of the resettlement plan: introduction
2. Project description and project potential impacts
 - 2.1. Project objectives, location, rationale, benefits and key components
 - 2.2. Project footprint and associated land impacts – avoidance and minimisation
3. Legal framework (to be adapted to the context in the jurisdiction)

Brief description of legal processes to be followed for land acquisition in the project and brief review of potential problematic gaps with the EBRD's standards, if any
4. Principles, objectives, and processes
 - 4.1. Key principles and objectives (should spell out in a formal manner and at a high level, without details, the key commitments the project is making regarding compliance with ESR 5)
 - 4.1.1. Avoidance of forced evictions
 - 4.1.2. Cut-off date and eligibility
 - 4.1.3. Compensation at replacement value, in-kind compensation wherever possible
 - 4.1.4. Livelihood restoration wherever livelihoods are affected
 - 4.1.5. Consideration of vulnerable people
 - 4.1.6. Consultation around grievance mechanisms
 - 4.1.7. Monitoring and external reviews
 - 4.1.8. Key principles for implementation arising from agreements with government or law, particularly where government is playing a mandatory role in implementation
 - 4.2. Process overview
 - 4.2.1. Negotiated settlements (outlining the process to arrive at a negotiated agreement – collective then individual negotiations, offers, refusals, acceptance, formalisation of agreement)
 - 4.2.2. Process in case no agreement is reached
5. Baseline of affected assets and affected persons

Should be proportionate to the magnitude of the impacts.

 - 5.1. Description of affected assets

- 5.2. Affected businesses
- 5.3. Affected people (numbers, nature of displacement, permanent or temporary displacement, restrictions)
- 6. Entitlements
 - 6.1. Valuation principles
 - 6.2. Entitlement matrix
 - 6.3. Gender-sensitivity assessment as relevant
- 7. Livelihood restoration
 - 7.1. Principles (eligibility, key aspects of livelihood restoration and improvement entitlements)
 - 7.2. Activities
 - 7.3. Partnerships for livelihood restoration activities
- 8. Consultation and disclosure
 - 8.1. Main results of consultation carried out for preparing the RP
 - 8.2. Engagement plan for further stages
 - 8.3. Disclosure
- 9. Grievance management and redress system
 - 9.1. Description of grievance management system
 - 9.2. Resort mechanism and mediation
- 10. Vulnerable people
 - 10.1. Identified vulnerable groups or people
 - 10.2. Assistance to vulnerable people
- 11. Monitoring and evaluation
 - 11.1. Internal monitoring scope
 - 11.2. Indicators
 - 11.3. Reporting frequencies
- 12. Implementation responsibilities and funding
 - 12.1. Implementation responsibilities
 - 12.2. Budget and arrangements for funding
 - 12.3. Time schedule

Any relevant annexes (photographs, maps, drawings, sample questionnaires and so on)

Annex 11. Resettlement framework – sample outline

The EBRD has developed a specific terms of reference for the preparation of resettlement frameworks that can be made available to projects.

Executive summary

1. Scope of the resettlement framework: introduction
 - 1.1. Scope and contents of this framework
 - 1.2. Key definitions
2. Project description and project potential impacts
 - 2.1. Project objectives, location, rationale and benefits
 - 2.2. Key project components (should be brief and can refer to the ESIA for further details)
 - 2.3. The project potential footprint and its associated land impacts (with maps, description and photographs as relevant) – this is tentative as the design of the project will typically not have been finalised at the time of submitting the framework, but a first estimate should be presented based on a worst-case scenario of impacts, possibly in different options if applicable
 - 2.4. Commitment to avoidance and minimisation of displacement in further project development
3. Legal framework (to be adapted to the context in the jurisdiction)
 - 3.1. The constitution (or any other fundamental law, typically establishing high-level principles related to public interest and expropriation versus protection of the right to private property)
 - 3.2. The expropriation law (review of principles and processes)
 - 3.3. Land tenure regime (including customary and informal regimes as relevant)
 - 3.4. Legalisation processes (if relevant)
 - 3.5. EBRD policy on involuntary resettlement (brief summary of ESR 5 and this guidance note)
 - 3.6. Gap review (comparison of local legislation to EBRD policies and identification of potential gaps, if any, with proposed way forward to meet ESR 5)
4. Principles, objectives and processes
 - 4.1. Key principles and objectives (should spell out in a formal manner and at a high level, without details, the key commitments the project is making regarding compliance with ESR 5)
 - 4.1.1. Avoidance of forced evictions
 - 4.1.2. Cut-off date and eligibility
 - 4.1.3. Compensation at replacement value, in-kind compensation wherever possible
 - 4.1.4. Livelihood restoration wherever livelihoods are affected
 - 4.1.5. Consideration of vulnerable people

- 4.1.6. Consultation around grievance mechanisms
 - 4.1.7. Monitoring and external reviews
 - 4.1.8. Key principles for implementation arising from agreements with government or law, particularly where government is playing a mandatory role in implementation
- 4.2. Process overview
 - 4.2.1. Negotiated settlements (outlining the process to arrive at a negotiated agreement – collective then individual negotiations, offers, refusals, acceptance, formalisation of agreement)
 - 4.2.2. Process in case no agreement is reached
 - With expropriation (formalised ownership)
 - Without expropriation (informal occupation)
- 5. Tentative resettlement and compensation strategy
 - 5.1. First approach to entitlements
 - 5.1.1. Eligibility to compensation
 - 5.1.2. Entitlement matrix
 - 5.2. Valuation of affected assets (principles, methodology, arrangements for valuation implementation)
 - 5.2.1. Land
 - 5.2.2. Structures
 - 5.2.3. Crops and trees
 - 5.2.4. Businesses
 - 5.3. Cash compensation
 - 5.3.1. Rates for all different types of assets
 - 5.3.2. Payment process
 - 5.3.3. Cash risk mitigation (including financial training, payment in instalments or any other relevant mitigations)
 - 5.4. Gender-sensitivity assessment on proposed compensation entitlements (gender analysis and mitigation of any gender risks)
- 6. Livelihood restoration and improvement
 - 6.1. Principles (eligibility, key aspects of livelihood restoration and improvement entitlements)
 - 6.2. Restoration and improvement of land-based livelihoods (replacement land and agricultural improvement packages) – tentative identification of potential activities
 - 6.3. Restoration and improvement of non-land-based livelihoods (employability enhancement, project procurement and employment, support in SME creation and development and so on) – tentative identification of potential activities
 - 6.4. Training
 - 6.5. Specific aspects related to gender

- 6.6. Specific aspects related to vulnerability
- 6.7. Partnerships and linkages for planning and implementation of livelihood restoration and improvement
- 7. Consultation and disclosure
 - 7.1. Main results of consultation carried out for preparing the resettlement framework
 - 7.2. Engagement plan for further stages
 - 7.3. Disclosure
- 8. Grievance management and redress system
 - 8.1. Key principles
 - 8.2. Registration of grievances
 - 8.3. First tier of amicable settlement
 - 8.4. Resort mechanism and mediation
 - 8.5. Appeal to court
- 9. Vulnerable people
 - 9.1. Vulnerability analysis
 - 9.1.1. Vulnerability definition and criteria in the context of the project
 - 9.1.2. Vulnerability matrix (with scoring of criteria)
 - 9.2. Potential activities in assistance to vulnerable people
 - 9.3. Arrangements for implementation and budget of assistance to vulnerable people
- 10. Monitoring and evaluation
 - 10.1. General objectives of monitoring and evaluation
 - 10.2. Auditing and monitoring during implementation
 - 10.2.1. Scope and content – internal activities
 - 10.2.2. Scope and content – external reviews
 - 10.2.3. Indicators, including key performance indicators
 - 10.2.4. Reporting
 - 10.3. Completion audit
 - 10.3.1. Objectives and scope
 - 10.3.2. Success/completion criteria
 - 10.3.3. Timing and implementation arrangements for completion audit
- 11. Implementation responsibilities and funding
 - 11.1. Implementation responsibilities
 - 11.2. Budget and arrangements for funding
 - 11.3. Time schedule (including review of compatibility of resettlement schedule with overall project construction and development schedule)

11.4. Change management

Annex A. Census dossier and methodology

Annex B. Template of a claim registration and follow-up form

And any other relevant annexes (photographs, maps, drawings and so on)

Annex 12. Additional resources

Multilateral development bank resettlement policies and guidance

African Development Bank (2023), *Integrated Safeguards System*. Available at:

www.afdb.org/en/documents/african-development-bank-groups-integrated-safeguards-system-2023.

Asian Development Bank (2024), *Environmental and Social Framework*. Available at: www.adb.org/who-we-are/environmental-social-requirements/environmental-social-framework.

Asian Infrastructure Investment Bank (2024), *Environmental and Social Framework* (2024). Available at: www.aiib.org/en/policies-strategies/framework-agreements/environmental-social-framework.html.

European Investment Bank (2022), *Environmental and Social Standards* (2022). Available at: www.eib.org/en/publications/eib-environmental-and-social-standards.

International Finance Corporation (2012), *Performance Standard 5: Land Acquisition and Involuntary Resettlement*. Available at: www.ifc.org/en/insights-reports/2012/ifc-performance-standard-5.

International Finance Corporation (2012), *Guidance Note 5: Land Acquisition and Involuntary Resettlement*. Available at: www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-ps-guidance-note-5-en.pdf.

International Finance Corporation (2023), *Good Practice Handbook: Land Acquisition and Involuntary Resettlement*. Available at: www.ifc.org/en/insights-reports/2023/handbook-land-acquisition-and-involuntary-resettlement.

World Bank (2016), *Environmental and Social Standard 5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement*. Available at: <https://thedocs.worldbank.org/en/doc/837721522762050108-0290022018/original/ESFFramework.pdf#page=67&zoom=80>.

World Bank, Guidance Notes, Good Practice Notes, and other resources on the Environmental and Social Framework. Available at: www.worldbank.org/en/projects-operations/environmental-and-social-framework.

Private-sector oriented resettlement guidelines

International Council on Mining and Metals (2015), *Land acquisition and resettlement: Lessons learned*.

Available at: www.icmm.com/en-gb/publications/mining-and-communities/land-acquisition-and-resettlement-lessons-learned. Contains reviews of 41 projects in the mining and related sectors around the world, offering practical guidance on how resettlement can be done well through planning, engaging with stakeholders, compensating for loss of land and restoring livelihoods, addressing the needs of vulnerable people and monitoring impacts.

Reddy, Smyth and Steyn (2015), *Land Access and Resettlement: A Guide to Best Practice*, Greenleaf Publishing/Routledge.

Other relevant guidance

EBRD, IFC and CDC (2020), *Addressing Gender-Based Violence and Harassment: Emerging Good Practice for the Private Sector*. Available at: www.ebrd.com/documents/gender/addressing-genderbased-violence-and-harassment-emerging-good-practice-for-the-private-sector.pdf.

World Bank guidance on inclusion in relation to sexual orientation and gender identity. Available at: www.worldbank.org/en/topic/sexual-orientation-and-gender-identity.

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EBRD (2016), *Resettlement Guidance and Good Practice*, London. Available at:

www.ebrd.com/content/dam/ebird_dxp/assets/pdfs/environment---sustainability/Implement-performance-requirements/prs/pr5/Resettlement-Guidance.pdf.

EBRD (2024a), *Environmental and Social Policy*, London. Available at:

www.ebrd.com/content/dam/ebird_dxp/assets/pdfs/environment---sustainability/environmental-and-social-policy-esp/esp-2024/EBRD-Environmental-and-Social-Policy-2024-high-res.pdf.

EBRD (2024b), *Directive on Access to Information*, London. Available at: www.ebrd.com/home/who-we-are/strategies-governance-compliance/access-to-information-policy.html.

EBRD (2025), *Environmental and Social Requirement 10: Stakeholder engagement – Guidance note*, London.

Available at: www.ebrd.com/home/who-we-are/ebird-values/ebird-environmental-social-sustainability/reports-and-policies/ebird-performance-requirements.html.

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IFC (2023), *Good Practice Handbook: Land Acquisition and Involuntary Resettlement*, Washington, D.C. Available at: www.ifc.org/content/dam/ifc/doc/2023/ifc-handbook-for-land-acquisition-and-involuntary-resettlement.pdf.

UN (1948), *Universal Declaration of Human Rights*. Available at: www.un.org/en/about-us/universal-declaration-of-human-rights.

UN (2004), *Guiding Principles on Internal Displacement*. Available at: <https://api.internal-displacement.org/sites/default/files/publications/documents/199808-training-OCHA-guiding-principles-Eng2.pdf>.

UN (2007), "Basic principles and guidelines on development-based evictions and displacement" in *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*. Available at: <https://docs.un.org/en/A/HRC/4/18>.

UN (2014), *Forced Evictions: Fact Sheet No. 25 Rev 1*, New York and Geneva. Available here: www.ohchr.org/sites/default/files/Documents/Publications/FS25.Rev.1.pdf.

Acronyms and abbreviations

CAP	corrective action plan
E&S	environmental and social
EBRD	European Bank for Reconstruction and Development
EIA	environmental impact assessment
ESAP	environmental and social action plan
ESIA	environmental and social impact assessment
ESP	Environmental and Social Policy
ESR	Environmental and Social Requirement
FPIC	free, prior and informed consent
GBVH	gender-based violence and harassment
GLAC	guide to land acquisition and compensation
IDPs	internally displaced persons
IFC	International Finance Corporation
IFI	international finance institution
LAR	land acquisition and resettlement
LRP	livelihood restoration plan
M&E	monitoring and evaluation
NGO	non-governmental organisations
PAPs	project-affected persons
PPP	public-private partnership
PR	Performance Requirement
RF	resettlement framework
RP	resettlement plan
UN	United Nations
UXO	unexploded ordnance

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