

# Resettlement Planning Document

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Land Acquisition and Resettlement Framework  
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## AZE: Water Supply and Sanitation Investment Program

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Republic of Azerbaijan

The resettlement framework is a document of the borrower. The views expressed herein do not necessarily represent those of ADB's Board of Directors, Management, or staff, and may be preliminary in nature.



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## LIST OF ABBREVIATIONS

ADB	–	Asian Development Bank
AF	–	Affected Family
AP	–	Affected Person
CLARC	–	Central Land Acquisition and Resettlement Commission
DMS	–	Detailed Measurement Survey
DSC	–	Design & Supervision Consultants
EA	–	Executing Agency
EMA	–	External Monitoring Agency
FY	–	Fiscal Year
GoA	–	Government of Azerbaijan
GRC	–	Grievance Redress Committee
IA	–	Implementing Agency
IMA	–	Internal Monitoring Agency
IP	–	Indigenous People
LAD	–	Land Acquisition and Resettlement Division
LARF	–	Land Acquisition and Resettlement Framework
LARP	–	Land Acquisition and Resettlement Plan
MFF	–	Multi-tranche Financial Facility
NGO	–	Non-Government Organization
PFR	-	Periodical Financial Request
PIA	–	Program Impact Area
PPTA	–	Program Preparatory Technical Assistance
RERS	–	Real Estate Registration Service
RLARC	–	Rayon Land Acquisition and Resettlement Commission

## DEFINITION OF TERMS

**Beneficiary Community:** All persons and households situated within the government-owned or acquired property, who voluntarily seek to avail and be part of the Program and represented by a community association that is duly recognized by the community residents, accredited by the local government, and legally registered with appropriate institutions/competent authorities.

**Compensation:** Payment in cash or in kind of the replacement cost of the acquired assets.

**Entitlement:** Range of measures comprising compensation, income restoration, transfer assistance, income substitution, and relocation which are due to affected persons, depending on the nature of their losses, to restore their economic and social base.

**Cut-off-date:** shall conform to the date of commencement of the affected persons (AP) census in the specified area.

**Host population:** Community residing near the area where the Program beneficiaries propose to voluntarily resettle as part of the Program.

**Land Acquisition:** The process whereby a government agency compulsorily alienate all or part of the land a person owns or possesses and transfer the ownership and possession to the government agency for public purpose in return for a consideration.

**Affected Person/People (AP):** Any person affected by Program-related changes in use of land, water, natural resources, or income losses. APs include those having losses as described in Table 2, the Entitlement Matrix which includes both titled and non-titled persons experiencing resettlement impacts due to the Program.

**Affected Family:** All members of a household, residing under one roof and operating as a single economic unit, who are adversely affected by the Program or any of its components. It may consist of a single nuclear family or an extended family group.

**Rehabilitation:** Compensatory measures provided under the Land Acquisition and Resettlement Framework other than payment of the replacement cost of acquired assets.

**Relocation:** The physical relocation of an AP from her/his pre-Program place of residence.

**Replacement Value:** The amount required for the Affected Household to replace/reconstruct the assets acquired by the government agency through purchase in the open market. See Table 2: Entitlement Matrix in this document.

**Resettlement:** All measures taken to mitigate any and all adverse impacts of the Program on AP's property and/or livelihood, including compensation, relocation (where relevant), and rehabilitation.

**Below Poverty Line (BPL) Households:** Households whose monthly income is less than a designated sum as determined by the Government of Azerbaijan. X manat per annum will be considered Below Poverty Line.

**Vulnerable Households:** Households headed by women, disabled persons, indigenous persons and BPL households.



## I. INTRODUCTION

1. The Azerbaijan Water Supply and Sanitation Investment Program (the Program) involves rehabilitation, improvement or construction of water supply and sanitation systems in the country's urban settlements. The program will be financed by ADB through a Multi-tranche Financial Facility (MFF). There will be five tranches associated with the Program. Tranche 1 will comprise investments in three towns of Agdesh, Goychay, Nakchivan.

2. Construction activities under the Program are expected to cause no or very little Land Acquisition and Resettlement (LAR) impacts. This Land Acquisition and Resettlement Framework (LARF) is prepared to address LAR issues if and when they occur in the course planning and implementation of the whole Program. This LARP establishes the principles and procedures for the compensation of possible loss of land, houses, buildings, crops, and livelihoods during the Program implementation in line with the *ADB Policy on Involuntary Resettlement* and the relevant policies and guidelines on land acquisition of the Government of Azerbaijan. Subproject Land Acquisition and Resettlement Plans (LARP), if necessary, will be prepared in accordance with this LARF. This document has been approved by AzerSu, the Program Executing Agency (EA), and its provisions have been endorsed by the Rayon Executive Powers in the Program Impact Areas.

## II. LAR PROCESSING REQUIREMENTS

3. Based on ADB policy/practice, the appraisal of the MFF/tranche 1 and the provision of Periodic Financial requests (PFR) for each successive tranche, will require the preparation of the following documents:

- (i) An updated LARF. The present LARF will be reviewed, if necessary updated, and then submitted for ADB approval at the start of the preparation of each tranche after the first;
- (ii) An Initial Poverty and Social Assessment (IPSA) indicating, for each tranche, whether LAR impacts will occur, if so, their type and magnitude.
- (iii) A LARP based on detailed design for each project with LAR impacts. The LARP will include detailed compensation and administration budgets and implementation schedules linking LAR tasks to the initiation of civil works.

4. The content and the level of details of each LARP will be in accordance with ADB procedures as detailed in the *Operations Manual (OM) Section F2/OP & BP (2006)*. Accordingly, a *Full* LARP will be prepared for all subprojects with "significant" impacts (Category A - the impacts are considered *significant* if 200 or more people are being displaced and/or are losing 10% or more of their productive, income generating assets). Subprojects with less significant impacts will require only a short LARP following the standard LARP outlines (Annex A).

5. Appraisal of the MFF/tranche 1, PFR approval for each successive tranche, approval of contract awards and provision of notice to proceed to the contractors for projects with LAR impacts will be based on the following LAR-related conditions:

- (i) **MFF and first tranche appraisal:** Conditional to the preparation of: (a) a LARF for the whole MFF approved by ADB and EA and, (b) implementable LARPs approved by ADB and EA for all tranche 1 subprojects with LAR impacts.
- (ii) **PFR approval for successive tranches:** Conditional to (a) review and, if needed, update of the LARF, and (b) preparation of an implementable LARP

approved by ADB and EA consistent with the revised LARF for each project requiring LAR.

- (iii) **Civil Works Contract Awards signing:** Conditional to the preparation of an implementable LARP approved by ADB and the EA consistent with the revised LARF for each subproject requiring LAR.
- (iv) **Provision of notice to proceed to contractors:** Conditional to full LARP implementation (full delivery of compensation/rehabilitation provisions) for the relevant project. This condition will be clearly spelled out in the civil works contract.

### III. LARP APPROVAL PROCESS

6. LARP preparation will be carried out by the Design Consultants (DSCs) hired by AzerSu for the duration of the Program's LAR activities. The DSCs will have international and local LAR capacity sufficient to cover all LAR planning and implementation needs throughout the Program implementation. The LARPs will be first approved by AzerSu and then will be endorsed by the Rayon Executive Powers of the subproject impacted areas.

### IV. LEGAL AND POLICY BACKGROUND

#### A. Azerbaijan Laws and Regulations on Land Acquisition and Resettlement

7. There are no laws or legislation in Azerbaijan that specifically address matters related to involuntary resettlement (IR). However, The Constitution of Azerbaijan (1995) categorically recognizes the citizens' right to own, use and dispose property. It also states that no one will be dispossessed of their property without the consent of the court of law and that alienation of private property for public purpose will be allowed only after payment fair compensation to the owner. Furthermore, there are a few legal and procedural instruments in the country for regulating and managing acquisition of land, property and other productive assets and for compensating the loss of assets. The most important of these are:

- (i) The Land Code (25 June 1999);
- (ii) The Civil Code (1 December 1998);
- (iii) Cabinet of Ministers Resolution No. 42 (15 March 2000);
- (iv) Cabinet of Ministers Resolution No. 110 (June 1999);
- (v) Cabinet of Ministers Resolution No. 158 (23 July 1998) and;
- (vi) Cabinet of Ministers Decree No 54 (4 April 2009)

8. Collectively, these regulations provide a sound basis for acquisition of land for public purpose and for compensating land owners with legal titles. A brief account of the provisions is given below. A detailed matrix of the relevant provisions is given in Annex B.

9. **Land Code (1999).** The Land Code is the most critical legislation in the context of land acquisition and involuntary resettlement. It recognizes the right of land owners with legal titles to compensation at market prices in the event their property is acquired for public purpose and, in the event of a dispute, their right to approach the court for its resolution. Similarly, the acquiring agency can also approach the law courts to process the acquisition if the owner objects to the acquisition or to the quantum of compensation. The Land Code also allows "land-for land" compensation. However, where a relevant local executive authority decides a land case, the decision shall come into force immediately and this decision cannot be terminated by the lodging a complaint with the relevant court. 10. Article 70.5 of the Land Code requires paying compensation to the legally recognized owners of the property in advance, i.e. before the acquiring authority take over the possession of the acquired property. Articles 110 and 111 of the Land Code states that unauthorized occupation of land

plots and illegal construction on land plots as violations of the land legislation. The articles state that such land plots will be returned to the relevant authorities without reimbursement of the expenses incurred during the illegal utilization. Rehabilitation of the lands, where necessary, should also be carried out by the illegal occupants at their own expense.

10. **Civil Code (1998).** The legality of ownership is established through registration certificate issued by the Real Estate Land Registry Service based on the cadastral information (survey numbers) obtained from the SLCC where the land is located. Provisional ownership certificates may be also issued by the District/Municipal authorities. The Civil Code states that any right to immovable properties must be registered with the State. However, registered land rights may be recalled from owners if such lands are required for public purpose and as approved by the relevant courts.

11. **Cabinet of Ministers Resolution No. 42 (2000).** Sections I and II of this Resolution make it mandatory for the acquiring authority to compensate the legal owners when their land is acquired for public purpose (whether temporary or permanent), and for the damages to their productive assets and crops. The resolution also outlines the formal procedures for the compulsory acquisition of land for state or municipal needs. The normal mode of procuring private land for state needs is based on the consent of owners<sup>1</sup> and of the local district executive powers. The agency requiring the land (client) works closely with the district/municipal authorities and the local Land and Cartography Commission (SLCC), prepares detailed maps, consults the owners and negotiates the compensation prices. This agreed plan for alienation and allocation of land to the client is to be approved by the district executive power and, if it falls outside its powers, by the SLCC at the apex level. The approval requires further endorsement from the Cabinet of Ministers. However, actual ownership transfer is effected only after the client provides another set of documents confirming the details of the design of the proposed facility, availability of funds for the work and a guarantee of payment of the agreed compensation to the owners, lessees and users. Recourse to compulsory land acquisition is taken only when any attempt to reach an agreement with landowners fails; Such action requires approval of the relevant court of law.

12. **Cabinet of Ministers Resolution No. 110 (1999).** The Resolution No. 110 outlines procedures for the acquisition and valuation of building/immovable properties for public purpose. It also refers to the Cabinet of Ministers Decree No. 158 that is to be used as the basis for making valuations of land.

13. **Decree No 54 (4 April 2009).** This decree on the "Rules for the Valuation of Properties to be Acquired for State Needs" provides that the State Committee for the Management of State Properties, participates with the Ministry of Finance and the Ministry of Economic Development in the review of the land acquisition surveys and in setting the land acquisition budgets before sending them to the Cabinet of Ministers for final approval.

## **B. Compensation Valuation Methods in Azerbaijan**

14. **Land.** Land compensation prices must be based on market rate, provided that such rate is not less than the cadastral or normative price<sup>2</sup> for the subject land (Land Code, article 96.5). Normative or cadastral rates for land in each district are set by Cabinet of Ministers

<sup>1</sup> During land privatization in 1996, land titles were allocated to all members of a family. In this case, the household head is responsible for signing project documentation relating to leases or assignment of rights. The household head must, however, obtain the written consent of all other people listed on the ownership documents.

<sup>2</sup> For agricultural land, base land values are established using the Former Soviet Union (FSU)-based cadastre system which values land based on land attributes (productivity of soils and regional agricultural characteristics), input costs and typical revenues achieved in each district.

Resolution No. 158 (1998). At the time of acquisition, the normative land values are reviewed by a Valuation Commission and adjusted upwards where necessary to reflect changes in crop type and production level. The negotiation and price agreement with owners are based on this revised normative value.

15. **Annual Crops.** Compensation payable for loss of annual crops is determined by the Valuation Commission for each district on the basis of certified data on the productivity of crops and the average price of produce issued by the district Department of Statistics.

16. **Perennial Crops (Trees, Shrubs and Vines).** Compensation for trees and shrubs (not included in the Forestry Fund of Azerbaijan Republic) expected to be cut or replanted within the project activity has to be conducted in agreement with the Rules for Use, Protection and Preservation of Trees and Bushes (19 September 2005). Perennial crops such as fruit trees, grape vines, and blackberry bushes growing on private yards and orchards are valued on a per tree or per shrub basis by applying a standard formula.

17. **Compensation for Immovable Assets and Land Attachments.** This covers a range of items such as fences, walls, animal enclosures, small irrigation channels, drains, wells, hand pumps, artesian bores, water pumps, hay sheds, animal shelters and roads. These items must be valued at full replacement cost.

18. **Compensation for Temporary land Acquisition.** Upon works completion, the land must be restored to its pre-project condition and returned to the owner/user with compensation for the following items:

- (i) Loss of annual crop production
- (ii) Potential crop yield reduction for three years
- (iii) Loss of any trees or perennial crops
- (iv) Loss of use of grazing land
- (v) Loss of immovable assets and land attachments.

### **C. ADB's Involuntary Resettlement Policy**

19. The ADB Policy on Involuntary Resettlement is based on the following principles:

- (i) Involuntary resettlement should be avoided or at least minimized to the extent possible.
- (ii) Compensation will ensure the maintenance of the APs' pre-project living standards.
- (iii) APs should be fully informed and consulted on LAR compensation options.
- (iv) APs' socio-cultural institutions should be involved as much as possible in the resettlement process.
- (v) Compensation/rehabilitation will be executed with equal consideration of women and men.
- (vi) Absence of formal legal land title should not be a bar to compensation entitlements.
- (vii) Particular attention should be paid to households headed by women and other vulnerable groups, such as IPs and ethnic minorities, and appropriate assistance should be provided to help them improve their status.
- (viii) LAR should be conceived and executed as a part of the Program, and the full costs of compensation should be included in Program costs and benefits.
- (ix) All compensation and resettlement subsidies should be provided prior to the dispossession of the property.

## D. Comparison of Azeri LAR Laws/Regulations and ADB Resettlement Policy

20. Comparison of Azeri laws with the ADB Policy on Involuntary Resettlement (IR) indicates that key elements of the ADB Policy are present to a certain degree in these laws, specifically in the Land Code (1999) and the Cabinet of Ministers Decree No. 42 (2000). The ADB's principle of avoidance or minimization of resettlement is partially addressed in the Azeri legislation particularly Article 70.4 of the Land Code (1999), which states that land can be acquired only for locating state, municipal or public facilities of high importance. The Cabinet of Ministers Decree No. 42 (2000), section I, Article 2 states that there is the need to avoid, wherever possible, diversion of agricultural lands and forests.

21. The main gaps between Azeri laws/regulation and ADB policy are outlined in Table 1 below.

**Table 1: Comparison of LAR-related Laws and Regulations and ADB Resettlement Policy**

<b>Azerbaijan Land Laws and Regulations</b>	<b>ADB Involuntary Resettlement Policy</b>
Land compensation only for titled owners (Land Code, Article 70.5)	Lack of title should not be a bar to compensation and/or rehabilitation. Non-titled landowners receive rehabilitation.
Only registered houses/buildings are compensated for damages or demolition caused by a project. (Land Code, Articles 8 and 70.5)	All houses/buildings are compensated for damage or demolition caused by a project irrespective of the status of formal title.
Crop loss compensation provided only to registered landowners. (Cabinet of Ministers Decree No. 42, Sections I and II)	Crop losses compensation provided to landowners and sharecrop/lease tenants whether registered or not
Land valuation based on current market value. (Cabinet of Ministers Resolution No. 158, 1998)	Land valuation based on current market rate/replacement value.
Land Valuation Commission is the only pre-litigation final authority to decide disputes and address complaints regarding quantification and assessment of compensation for the affected assets. (Azeri Land Code, 1999)	Disputes, complaints and grievances are resolved informally through community participation in the Grievance Redress Committees (GRC), Local governments, and NGO and/or local-level community based organizations (CBOs).
The decisions regarding land acquisition are discussed only between the landowners and the Land Valuation Commission. (Azeri Land Code, 1999)	Information related to quantification/costing of affected assets, entitlements, compensation rates and financial assistance are to be disclosed to the APs prior to appraisal.
No provision for income/livelihood rehabilitation measure, allowances for severely affected APs and vulnerable groups, or resettlement expenses. (Lacking in all legislation)	The ADB policy requires compensation for income/livelihood losses and for expenses incurred by the APs during the relocation process.

## E. Remedial Measures to Bridge the Gap

22. In general, Azeri laws and regulations relevant to LAR adhere not only to the objective of compensation for affected families, but also to the objective of rehabilitation as envisaged under the ADB policy on involuntary resettlement. However, Azeri laws are unclear on how rehabilitation is to be achieved in practice. The Program LARF is intended to clarify these issues and to reconcile the gaps between the Azeri laws and regulations and the ADB Policy. The LARF ensures compensation at replacement cost for all acquired assets, rehabilitation benefits to informal settlers and provision of subsidies or allowances for APs who suffer income losses or are required to be relocated.

## V. THE PROGRAM COMPENSATION ELIGIBILITY AND ENTITLEMENTS

23. The land acquisition and resettlement tasks under the program will be carried out according to the compensation eligibility and entitlement provisions developed in line with the Azeri laws and the ADB policy as detailed in the next chapter.

### A. Eligibility and Entitlements

24. Under the Program LARF the following categories of affected persons will be entitled to compensation and/or rehabilitation benefits:

- (i) APs losing land irrespective of whether land is held under valid legal rights or customary rights with or without legal status;
- (ii) Tenants and sharecroppers whether registered or not;
- (iii) Owners of buildings, crops, trees or other objects attached to the land; and
- (iv) APs losing business or income/employment opportunities.

25. APs and affected assets will be identified through a Detailed Measurement Survey (DMS). The DMS end date will be the cut-off date for compensation eligibility. APs settling in affected areas after this date will not be eligible for compensation. They, however, will be given sufficient advance notice to vacate and dismantle the affected land/structures. Their dismantled structures will not be confiscated nor they will be fined or sanctioned.

26. The compensation and rehabilitation entitlements for each affected item established for the Program is detailed below on table 2.

**Table 2: Entitlement Matrix**

Loss type	Specification	Affected People	Compensation Entitlements
Permanent loss of Arable Land	All land losses independent Of impact severity	Farmer/Titleholder	Land for land compensation with plots of equal value and productivity to the plots lost, and acceptable to the APs; or cash compensation at replacement cost based on market rate free of taxes, registration and transfer charges. Unaffected portions of a plot will also be compensated if they become unusable after impact occur.
		Leaseholder (registered or not)	Transfer of lease to other plots of equal value/productivity of plots lost, or Cash equivalent to the net income from the land calculated on the basis of the market value of annual production of affected land for the remaining lease years (up to maximum 10 years).
		Sharecroppers (registered or not)	Cash compensation equal to market value of the lost harvest share once (temporary impact) or twice (permanent impact)
		Agricultural workers losing their contract	Cash indemnity corresponding to their salary in cash and kind for the remaining part of the agricultural year.
		Non-titled cultivators	1 rehabilitation allowance equal to 1 year's net income from the affected land (in addition to crop compensation) for land use loss.
	Additional provisions for severe impacts (> 10% of land loss)	Farmer/Titleholder Leaseholder	1 severe impact allowance equal to the net income from annual crop production (inclusive of winter and summer crop and addition to standing crop compensation) and the waiving of taxes and fees
		Sharecroppers (registered or not)	1 severe impact allowance equal to the net income from their annual share of harvest lost (additional to standard crop compensation)
Non-titled land owners		1 severe impact allowance equal to the net annual income from the affected land (additional to standard crop compensation)	
Temporary Land Acquisition		All APs (including non-titled land owners)	Affected land/communal infrastructure will be restored or reconstructed to pre-project conditions. Rent shall be agreed between landowner and contractor equal to the revenue lost at market value (e.g. compensation for harvests lost at average yield / hectare).
Residential/ Commercial Land		Titleholder	Land for land compensation with plots of equal value and productivity to the plots lost, and acceptable to the APs; or Cash compensation for affected land at full replacement cost free of taxes, registration and transfer costs
		Non-titled land owners	Provision of a free or leased plot in a Government resettlement area or a self-relocation allowance equal to 1 year at minimum salary.
Houses Buildings and Structures	Full/partial loss of structures	owners (with/without house or building registration)	Cash compensation at replacement rate for affected structure/fix assets free of salvageable materials, depreciation and transaction costs. For partial impacts, full cash assistance to restore remaining structure. cost of lost water and electricity connections will be included in the compensation.
		Renter/Leaseholder	An allowance equal to 3 months rent
Standing Crops	Crops affected	All APs (including non-titled land owners)	Cash compensation equivalent to the gross income from the crop computed as the market value of the total annual produce from affected land. To be paid both to landowners and tenants based on their specific sharecropping agreements.
Trees	Trees affected	All APs (including non-titled land owners)	Cash compensation shall reflect income replacement. Fruit trees will be valued at market value of 1 yr's produce X number of yrs needed to grow a tree of the same productivity.
Business/ Employment	Temporary/ permanent loss of business or	All APs (including non-titled land owners)	Business owner: (i) Cash compensation equal to 1 yr's income, if loss is permanent; (ii) cash compensation for the period of business

	employment		interruption, if loss is temporary. Compensations based on tax declaration or official minimum salary Worker/employees: Indemnity for lost wages for the period of business interruption up to a maximum of 3 months.
Livelihood		Vulnerable AP : AP below poverty line	1 additional allowance equal to 3 months at minimum salary. Priority for employment in project-related jobs, training opportunities, self-employment and wage-employment assistance
Relocation	Transport/ transitional livelihood costs	All APs affected by relocation	Provision of cash compensation to cover transport expenses and livelihood expenses for one month.
		House renters	Provision of a cash grant for 3 months' rent at prevailing rate in the area.
Community assets	Loss/damage to public infrastructure/utilities		Rehabilitation/replacement of affected structures/utilities (i.e. mosques, footbridges, roads, schools, health centres, etc..) to pre-Program level

## B. Assessment of Compensation Unit Values

27. The methodology for assessing minimum compensation rates of different items is as follows:

- (i) Land will be valued at replacement cost based on market rates derived from a survey of land sales in the year before the impact survey. No deductions for taxes or transaction costs will be applied.
- (ii) Houses/buildings will be valued at replacement value based on cost of materials, type of construction, labor, transport and other construction costs. No deductions will be applied for depreciation, salvaged materials and transaction costs
- (iii) Annual crops will be valued at full market rate at the farm gate.
- (iv) Fruit trees will be valued based on age category (a. seedling; b. not yet productive; c. productive). Productive trees will be valued at market value of 1 year produce X the number of years needed to grow a new tree with the same productive potential of the lost tree.

28. Initial asset valuation will be done by the Design and Supervision Consultants (DSC) which will be verified and certified first by the AzerSu LAD and then by the Rayon LAR Commission. If the land/property is being acquired with the owners consent, this valuation will be used as the basis of negotiation between the owners and the local authorities.

## VI. PROVISION OF LAND FOR LAND COMPENSATION

29. If "land for land" is the chosen as the compensation option, the DSC will locate on the town map the possible relocation site / replacement plots from which the APs can choose. They will also identify the associated infrastructure requirements (service roads, drainage, sanitation, water supply and electricity facilities) and site-preparation costs. All relocation activities will be carried out with the consent and cooperation of the affected people.

## VII. GENDER IMPACT AND MITIGATION MEASURES

30. Women have important economic roles and engage in a very wide range of income making activities in the agricultural and marketing sector. The Program will pay particular attention to ensure that women are the recipients of the compensation pertaining to their activities and to ensure that women who are de-facto household heads are clearly listed as beneficiaries of compensation and rehabilitation proceedings under the loan. In order to ensure the above the following actions will be considered:

- (i) Impact assessment will disaggregate the APs gender-wise and will clearly indicate the number of affected women-headed households and their pre-Program socioeconomic status.
- (ii) Women will be encouraged to actively participate in all LAR-related consultations and negotiations.

- (iii) LARP monitoring/evaluation will pay special attention on the impact of resettlement on women and other vulnerable groups.
- (iv) All compensation due to woman-headed families will be given to only the women family head.

### **VIII. PUBLIC PARTICIPATION AND DOCUMENTS DISCLOSURE**

31. All land acquisition and resettlement activities will be carried out with the cooperation and assistance of affected people and the local administrative agencies. More specifically:

- (i) Officials of district (rayon) and municipal towns (baladiya) will be informed about the Program and their assistance will be solicited in the supervision of the AP census and the inventory of affected assets;
- (ii) The DSC will carry out the DMS with the cooperation of affected families and will inform them the results of the survey and the inventory prior to the finalization of the RP and its submission to Program authorities.
- (iii) The preference of APs related to compensation and other resettlement assistances will be given due consideration during the planning process.
- (iv) Specific mechanisms for ensuring the active involvement of APs and other stakeholders will be detailed in subproject LARPs which also will include an appendix with date, list of participants, and minutes of consultation meetings.

32. This LARF in Azeri will be made available to the APs at the relevant SuKanal and baladiya offices once subprojects are identified. Its English version will be disclosed on the ADB website after EA endorsement. The LARPs in Azeri will be disclosed to the affected communities and a pamphlet Azeri, summarizing compensation eligibility and entitlement provisions, will be sent to all APs before tranche appraisal. The English translations of the LARPs and pamphlets will be disclosed on the ADB website prior to tranche appraisal.

### **IX. INSTITUTIONAL ARRANGEMENTS**

33. The main institutions that will be involved in LAR activities are AzerSu the program executing agency (EA), DSC, rayon (district) and baladiya (municipal towns) authorities and State Land and Cartography Committee at the apex as well as the district level.

#### **A. AzerSu**

34. AzerSu has overall responsibility for all aspects of the Program. The program Management Unit (PMU) within AzerSu is responsible for the day to day management of the Program including LAR and cross-agency coordination. The Land Acquisition Division (LAD) within the PMU is directly responsible for all LAR related planning, implementation, inter-agency coordination and monitoring. However, they will carry out this responsibility with technical assistance from the Design and Supervision Consultants (DSC) to the Program and with the active participation of the district/municipal executive powers and the SLCC.

#### **B. Design and Construction Consultant Resettlement Team**

35. The Design and Construction Consultants (DCC) are hired to design and assist in the implementation of projects under the Program. DSC will have sufficient in house expertise on resettlement consisting of international and national resettlement specialists. They will analyze the cadastral maps, carry out DMS, conduct first level compensation negotiation with the APs and prepare subproject LARPs. The DSC will submit these LARPs to the respective SuKanal and to LAD division for approval. After its approval, DSC will submit LARPs to the respective Rayon LAR Commission.

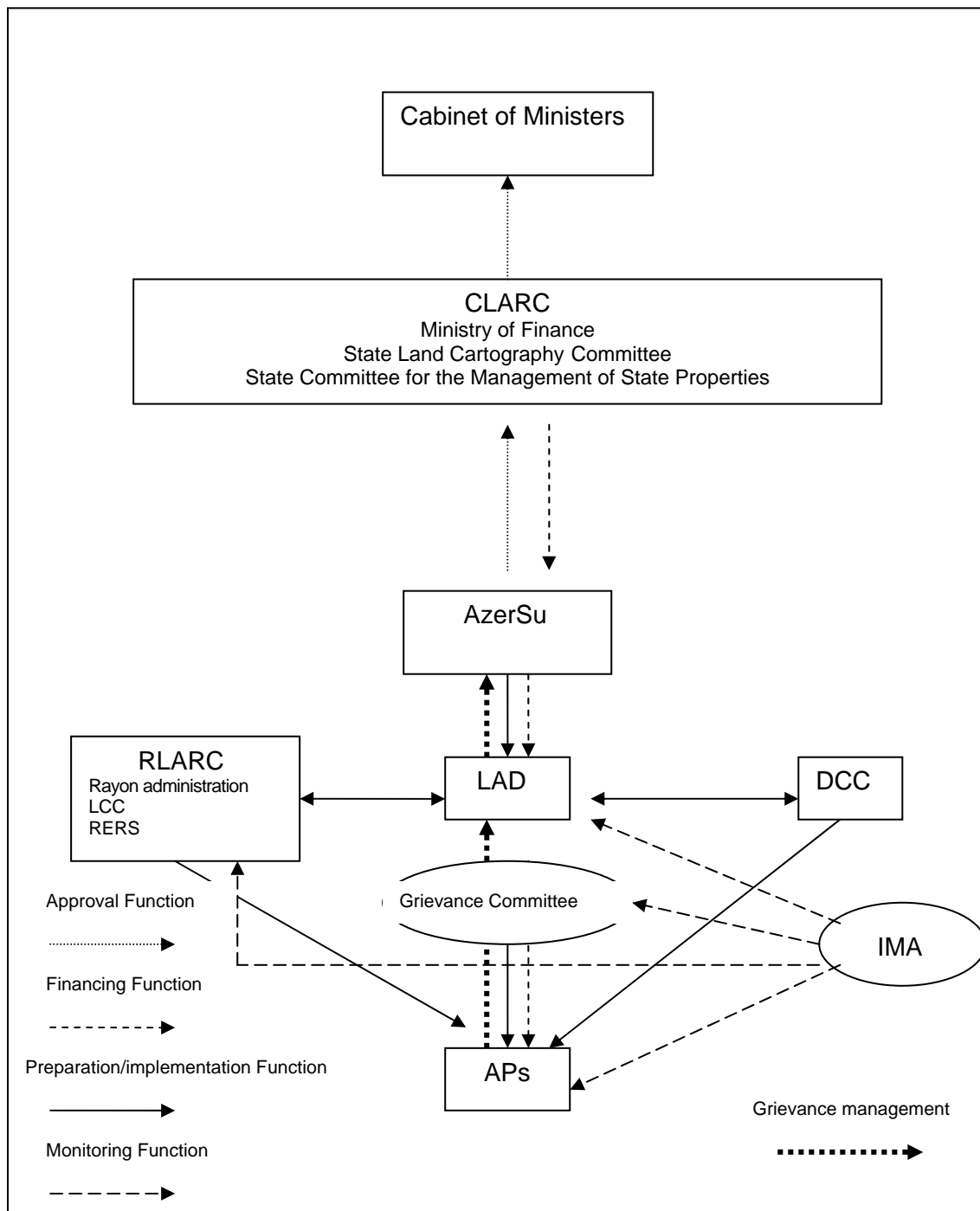
### **C. Local Governments**

36. Local governments agencies involved in LARP preparation are the Rayon Executive Authorities, the local Land and Cartography Committee (SLCC), and the Real Estate Registration Service (RERS). To provide effective inter-agency coordination and to officially endorse surveys and the compensation rates, each affected Rayon will establish a Rayon LAR Commission (RLARC). The RLARC will have jurisdiction for land administration, valuation and acquisition. Functions pertaining to compensation of assets other than land (i.e. buildings and crops) or income rehabilitation will also fall on the RLARC. The regional representatives of the State Land and Cartography Committee (SLCC) will carry out specific roles such as titles identification and verification.

### **D. Central Government**

37. Relevant agencies at central government level are at the national level, the Government will establish a Central LAR Commission (CLARC) with representatives from Ministry of Finance, State Land and Cartography Committee, and State Service for Real Estate Registration. The CLARC, to be chaired by the State Land and Cartography Committee, will ensure inter-agency coordination and carry out the final review of LARP and approve its financing and implementation.

## **Figure 1: Active Parties within the LAR Process**



APs = Affected People; AzerSu = AzerSu Joint Stock Company; CLARC = Central Land Acquisition and Resettlement Commission; DCC = Design and Construction Consultants; IMA = Internal Monitoring Agency; LAD = Land Acquisition and Resettlement Division; RERS= Real Estate Registration Service; RLARC = Rayon Land Acquisition and Resettlement Commission

### X. COMPLAINTS AND GRIEVANCES

38. A grievance mechanism will be available to allow appeals against any disagreeable decision, practice or activity arising from land or other assets compensation. APs will be fully informed of their rights and of the procedures for addressing complaints whether verbally or in writing during consultation, survey, and time of compensation.

39. Care will be taken to prevent grievances rather than going through a redress process by ensuring active consultation with and participation of affected households in the LAR planning and implementation process. If grievances still arise, all attempts will be made to resolve those informally at the local level. If this attempt fails, APs will have the option of taking their complaint to the formal mechanism of addressing grievances described in Table-3.

**Table 3: Grievance Resolution Process**

<b>Land/ Crops Compensation Issues</b>
1. First, complaints resolution will be attempted at town level with the involvement of the DSC, the local executive power and local NGOs if available.
2. In absence of a settlement, APs may lodge a complaint RLARC. The RLARC will decide the case within 15 days.
3. If the RLARC decision is unacceptable to the APs, they can register the complaint directly to the CLARC within 1 month of receiving response from the RLARC with documents supporting their claim. The CLARC will respond within 15 days of registering the complaint. The CLARC decision must be in compliance with these LARF provisions.
4. Should all three levels of above grievance redress system fail to satisfy the AP, he/she may approach the appropriate court of law for its resolution.

## **XI. MONITORING AND EVALUATION**

40. All LAR tasks under the Program will be subjected to both internal and external monitoring. Internal monitoring will be conducted by AzerSu LAD. External monitoring will be assigned to the supervision consultants or to an External Monitoring Agency (EMA) to be hired by the EA and approved by ADB. ADB will prepare the terms of reference (TOR) for the EMA once Program implementation commence.

### **A. Internal Monitoring**

41. Internal monitoring will be carried out routinely by the AzerSu LAD. The results will be communicated to ADB through the quarterly Program Implementation Reports. Indicators for the internal monitoring will be those related to the processes and immediate outputs and results. This information will be collected directly from the field and reported monthly to the PMU. The monthly reports will be consolidated and included in the standard quarterly supervision reports to ADB. Internal monitoring will specifically focus on the status of:

- (i) Information campaign and consultation with APs;
- (ii) land acquisition and compensation payments;
- (iii) Compensation for affected structures and other assets;
- (iv) Relocation of APs;
- (v) Payments for loss of income;
- (vi) Selection and distribution of replacement land areas; and
- (vii) Income restoration activities.

42. The above information will be collected by the AzerSu LAD which will monitor the day-to-day resettlement activities of the Program through the following instruments:

- (i) Review of census information for all APs;
- (ii) Consultation and informal interviews with APs;
- (iii) In-depth case studies;
- (iv) Sample survey of APs;
- (v) Key informant interviews; and
- (vi) Community meetings.

## **B. External Monitoring**

43. External monitoring results will be communicated to AzerSu and ADB through ad hoc reports to be included in the quarterly supervision reports. Subprojects with a LARP implementation time frame under three months will entail only one report. External Monitoring will cover:

- (i) Review and verification of internal monitoring reports prepared by LAD;
- (ii) Review of the socio-economic baseline census information of APs;
- (iii) Identification and selection of impact indicators;
- (iv) Impact assessment through formal and informal surveys with the affected persons;
- (v) Consultation with APs, officials, community leaders for preparing review report; and
- (vi) Assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement policy formulation and planning.

44. External Monitoring will also assess the status of vulnerable groups such as female-headed households or families below the poverty line. The following will be considered as the basis for indicators in monitoring and evaluation of the Program:

- (i) Socio-economic conditions of the APs in the post-resettlement period;
- (ii) Communications and reactions from APs on entitlements, compensation, options, alternative developments and relocation timetables etc;
- (iii) Changes in housing and income levels;
- (iv) Rehabilitation of informal settlers;
- (v) Valuation of property;
- (vi) Grievance procedures;
- (vii) Disbursement of compensation and
- (viii) Level of satisfaction of APs in the post resettlement period.

45. A final external evaluation of LARP implementation will be carried out about a year after completion of its implementation. The compelling reason for this study is to find out if the objectives of the LARP have been attained or not. The benchmark data of socioeconomic survey of severely affected APs conducted during the preparation of the LARP will be used to compare the pre and post Program conditions. The evaluation will recommend appropriate supplemental assistance for the APs should the outcome of the study shows that the objectives of the LARP have not been achieved.

## **XII. TRAINING IN LARP IMPLEMENTATION**

46. All Design & Supervision Consultants (DSCs) involved in LAR activities and all LAD officials will undergo a week-long orientation and training in ADB resettlement policy and management. The training will be provided by the international specialist under the Program consultant's contract and will cover the following topics:

- (i) Principles and procedures of land acquisition;
- (ii) Public consultation and participation;
- (iii) Entitlements and compensation & assistance disbursement mechanisms;
- (iv) Grievance resolution; and
- (v) Monitoring of resettlement operations.

## **XIII. RESETTLEMENT BUDGET AND FINANCING**

47. All LARP preparation and implementation costs including cost of compensation and LAR administration will be considered as an integral part of the Program cost. Each LARP will include a budget section indicating: (i) unit compensation rates for all affected items and allowances; (ii)

methodology followed for the computation of unit compensation rates; and (iii) a cost table for all compensation expenses including administrative costs and contingencies.

48. Finances for compensation, allowances, and administration of LARP preparation and implementation will be provided by the Government as counterpart funds. Costs for external monitoring tasks will be allocated under the loan. In order to ensure that sufficient funds are available for LAR tasks, the LAD will have to allocate 100% of the cost of compensation at replacement cost and expected allowances estimated in each LARP plus 15% of contingencies before RP implementation.

49. Being the Program owner, AzerSu is responsible for the timely allocation of the funds needed to implement the LARPs. Allocations will be reviewed twice a year based on the budget requirements indicated by the LARPs.

50. As per the LAR finances, the budget for land, tree and crop compensation as well as structures/houses, employment loss, income loss, etc. will be disbursed by the AzerSu LAD via the Ministry of Finance to the APs.

#### XIV. LARP IMPLEMENTATION PROCESS

51. In Azerbaijan the implementation of a LARP may take up to several months. The Design and Supervision Consultants (DSC) resettlement team (inclusive of a local and international specialist and perhaps a local non-government organization if found) will be hired by AzerSu to assist in RP implementation process. The LAD within AzerSu will establish and announce the cut-off-date based on the date of census for the proposed subproject based on the eligibility criteria defined in this LARF. The APs of affected structures/assets will be paid their due compensations at least 1 month (30 days) prior to demolition of the structures from the corridor of impact. This time will allow them to dismantle and remove all salvageable material for rebuilding of houses and re-establishment of businesses. However, AzerSu reserves the right of demolishing unauthorized structures without paying any compensation simply by serving a notice of eviction for a maximum of two weeks, provided it is established that those structures were constructed after the “cut-off” date.

52. The basic LAR-related steps for the preparation and implementation of tranches and within tranches, subprojects are summarized on Box 1 below.

#### BOX1: LAR TASKS PROCESS

Step	Action	Responsibility
<b>A)</b>	<b>TRANCHE PREPARATION</b>	DCC
1	<b>Subprojects identification</b>	LAD and DCC
2	<b>Review and update of LARF</b>	LAD, ADB and CLARC
3	<b>Preparation of an Activities Plan detailing RP tasks and schedules for LAD, consultants, and an NGO (if available)</b>	LAD and DCC
<b>B)</b>	<b>LARP PREPARATION</b>	DCC
1	Assessment of Project's Poverty and Social Impacts (IPSA)	DCC
2	Finalization of land acquisition requirements	LAD
3	Prepare surveys forms for Census and DMS, train local Census and DMS teams, and establish coordination with relevant local government agencies.	DCC
4	Collection of cadastral and parcel maps of the Program area	DCC/State Committee on Land and Cartography
5	Verify land records in affected areas, update cadastral maps and carry out impacts and valuation surveys – Detailed Measurement Survey (DMS)	DCC
7	Conduct public consultations	DCC/NGO
8	Negotiations with APs	DCC, local government, NGO, RLARC, CLARC

9	Integrate data from Census into the RP.	DCC
10	Submission of LARP to LAD, RLARC, CLARC and ADB for approval.	DCC
<b>C)</b>	<b>RP IMPLEMENTATION</b>	
1	RP disclosure: Distribution of RP and information pamphlets in Azeri in the affected communities; posting of RP in English on the ADB website	DCC/ADB
2	Approval of Contract awards	ADB
3	Distribution of Relocation Notices to APs	DCC, LAD
4	Award of checks for land compensation	DCC/LAD/Ministry of Finance
5	Award of checks for other Compensation & Assistance/ Rehabilitation	DCC/LAD/Ministry of Finance
6	Demolishing/ Relocation of Affected Structures/Assets	LAD
7	Review of RP Implementation	LAD/RLARC/ADB
8	If RP Implementation found satisfactory, Notice to proceed for Civil works is issued	ADB/LAD
<b>D)</b>	<b>POST-IMPLEMENTATION TASKS</b>	
1	Independent evaluation of RP	EMA
<b>E)</b>	<b>CYCLICAL/CONTINUOUS TASKS</b>	
1	Internal monitoring. Quarterly reporting on LAR to ADB	LAD
2	External Monitoring. Semi-annual reporting to ADB	EMA
3	Grievances Redressal/Law Suites	DCC/RLARC/CLARC/Court
4	Inter-agency coordination and Communication with AP	DCC/LAD/local executive power, NGO

## STANDARD LAND ACQUISITION AND RESETTLEMENT PLAN OUTLINE

1. A Full LARP is required if a subproject of the Program involves relocation of 200 or more persons or they are losing 10% or more of their productive assets or income (Category A, Significant Impact). Such LARP should be detailed and should be prepared in accordance with the following outline. Projects with less than “significant” impacts would need only a short LARP. A short LARP may also follow the same outline, but in lesser detail.

### **A. LAR issues for the scheme**

2. This chapter describes the scheme activities and items requiring LAR; alternative options, if any, considered to minimize land acquisition and its effects; and why remaining effects are unavoidable.

### **B. Scope of land acquisition and resettlement**

3. This chapter describes the preparation of the impacts (who carried it out and when it was initiated) and provides a full assessment of each type of impact and a census of affected peoples. The chapter also includes a description of the methodology followed to determine unit-compensation rates for each affected item and subsidy/allowance.

### **C. Objectives, policy framework, and entitlements**

4. This chapter outlines the eligibility and compensation framework for the scheme.

### **D. Consultation and grievance redress participation**

5. This chapter summarizes procedures for redress of grievances by people affected and describes the consultation/participation process and grievance redress that occurred in the subproject at hand.

### **E. Compensation, relocation, and income restoration**

6. This chapter outlines the income restoration measures to be implemented.

### **F. Institutional framework**

7. This chapter outlines the institutional arrangements. It includes the following issues: responsibilities for main tasks and for planning, negotiating, consulting, approving, coordinating, implementing, financing, monitoring, and evaluating land acquisition and resettlement.

### **G. Resettlement budget and financing**

8. This chapter provides the unit compensation rate for each affected item and assesses the LAR budget for the scheme. The LAR budget will include land acquisition and eventual land acquisition costs, amounts due for crop compensation and for the subsidies and allowances, monitoring and evaluation costs, and administrative costs and will be adjusted for inflation and applicable taxes.

### **H. Implementation schedule**

9. This chapter provides a time schedule showing the LAR process and linking LAR tasks with civil works implementation.

### **I. Monitoring and evaluation**

10. This chapter specifies arrangements for routine and independent monitoring and evaluation activities

## OVERVIEW OF EXISTING NATIONAL REGULATORY FRAMEWORK RELATED TO LAR

<p>Azerbaijan Constitution (12 November 1995) Article 29</p>	<p>1. Every Person shall have the right to Property. No form or kind of property shall have any advantage. The Property right, including the private property right, shall be protected by Law. 2. Every individual may possess movable and immovable Property. The Property right shall consist of the owner's right to possess, use and dispose the Property, individually or jointly. 3. No one shall be dispossessed without the decision of court. The Property shall not be totally expropriated. 4. The alienation of the Property for the State needs or social needs shall be allowed only upon preliminary fair reimbursement of its value. The State shall secure the succession right.</p>
<p>Land Code of Azerbaijan Republic (25 June 1999) Article 70</p>	<p>1. All lands in use or in rent can be bought for state, municipality or for public needs 2. Lands in use could be taken back by Local Executive Power and Municipalities via the legal enforcement on the basis of the court decision 3. Privately owned land can be forced to be sold if there is planning to locate something for state or public needs 4. People can be compensated with the same amount and same category of land in other place if the expropriated land is used for state, municipality or public needs</p>
<p>Article 86</p>	<p>1. Following categories of lands and their rights can be sold: private land, municipality lands, and lands under privatized state property. 2. Foreigners and non-citizens are not allowed to buy land in the Republic of Azerbaijan</p>
<p>Article 94</p>	<p>1. There are two kinds of values for lands: nominal and market price.</p>
<p>Article 95</p>	<p>1. The nominal price of lands is a value indicator reflecting quality and productivity 2. The nominal price is used as a basic value in the following situations: when lands are taken back or expropriated from owners and when the land is sold by owner, and when the lands category is changing 3. Nominal price is indexed by inflation rate and calculated by the District's Executive Power (Local Executive Body)</p>
<p>Article 96</p>	<p>1. When the privately owned land is purchased the value is calculated by agreement of correspondent sides based on the market price (seller and buyer) 2. When municipality land is sold, market prices must be higher than nominal price and determined by municipality administration 3. When the land is sold for public needs, the price of this land will be determined by independent experts in this process. There must be an agreement by both sides.</p>
<p>Article 103</p>	<p>Disputes about land are solved by the District's Executive Power, Municipalities and Court.</p>
<p>Law on Land Market (7 May 1999)</p>	<p>Establishes requirements for land transactions such as purchasing and selling of land, mortgages, transferring of rights to other users and lessees, and transfer of land through inheritance; makes recommendations on the nature of land market agreements and contracts; requires registration of all land rights and sets out documentation requirements; and outlines penalties for failure to comply with regulations.</p>
<p>Resolution No.42 of "On some Normative and Legal Acts Relating to the Land Code of the Azerbaijan Republic" (15 March 2000)</p>	<p>Expands on provisions of the Land Code with respect to the following areas: a) procedures for determining payments for agricultural and forestry production losses and damage resulting from restriction of use, or change in land use; b) procedures for resumption of private land for state or public needs; c) procedures for granting leases for grazing and hayfield use; and, d) procedures for allotting land for industrial, transportation, communication and other purposes.</p>

Cabinet of Ministers Decree No. 158 on normative Costs of Land (23 July 1998)	Sets out standard or normative values of land for each district in Azerbaijan. For Lankaran-Astara region, which includes the Masalli district, the normative price for 1 ha agricultural land is 1695.4 AZN, while 1 ha of pasture land is specified as 474.64 AZN. For Jalilabad district normative price of 1 ha agricultural land is 848.16 AZN, while normative price of 1 ha of pasture land is 530.52. For Mugan-Salyan region, which includes Bilasuvar and Neftchala districts, normative price of 3 <sup>rd</sup> category agricultural land is 1086.98.
Law on Land Leases (11 December 1998)	Sets general rules governing leasing of land, procedures for changing lease conditions and establishes the requirement for registration of leases.
Civil Code (1 September 2000)	Defines types of legal interests in property (full ownership, lease, third party); requires proprietary rights and other rights for immovable property, as well as restrictions, formation, assignment or transfer of rights to be registered with the State. Use rights, servitude rights and mortgages must also be registered. Requires that land acquired for state or public needs shall be purchased by 'an authorized body of the Azerbaijan Republic' or municipality, by paying the market price in advance. Provides for people to have the right to register their ownership due to long, actual possession.
Civil Procedures Code (1 September 2000) Article 360	Sets out procedures and applicable timeframes for actions and appeals through the courts. Court decisions on compulsory acquisition and the basis of any land valuation must be appealed with the higher court within one month of such decision
Land Acquisition	The Memorandum of Understanding on Land Acquisition between the International Development Association (IDA) and the Government of Azerbaijan, which is used in the Baku-Gazakh-Georgia Borders road construction, states which information is collected for compensation applications. This includes (a) the type of land: if sowing land, pasture, garden, dry-farming or irrigated land, (b) buildings, (c) plants already sown or to be sown during the next season and (d) perennial herbs, trees and their age and quantity. This information is collected by the representatives of the District's Executive Power and Azerbaijan State Land and Cartography Committee for compensation which is finally approved and accepted by the Cabinet of Ministers.
Compensation Funds	<p>1. Although the state is responsible to compensate, there is no permanent and clear compensation system and the accepted compensations are paid from different state funds as the case maybe. For the Tovuz Bypass Project it was recommended that compensations be paid from the Government funds of the IDA loan project and monitored by the RTSD or a supervision consultant engaged in the project.</p> <p>2. Compensations must be paid immediately after the final road design has been finished and those eligible to compensation are known. Compensations must be completed before any of the construction work starts.</p>
Law of the Protection of Historical and Cultural Monuments Article 10	Protection of Monuments states that no historical and/or cultural monuments which are declared as such by the Azerbaijan Science Academy, are to be demolished. No such monuments were found in the corridors under study.

(Source: IDA Credit 3517 – AZ, TECHNICAL ASSISTANCE FOR TOVUZ BYPASS, LAND ACQUISITION PLAN, Finnroad, Baku, May 2005)