

Water Governance Benchmarking Criteria

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Decree no. 2-97-224 of 21 Joumada II 1418 (24 October 1997) setting the conditions governing the artificial accumulation of waters **8**

The Prime Minister,

In view of Law no. 10-95 regarding water promulgated by Dahir (Royal Decree) no. 1-95-154 of 18 Rabii I 1416 (16 August 1995), and in particular its article 25; **37**

After examination by the Council of Ministers meeting on 13 Joumada II 1418 (16 October 1997), **39**

Decrees:

Article 1: The artificial accumulation of waters provided for in paragraph 2 of article 25 of the above-cited law no. 10-95 is subject to authorization issued by the director of the hydrological basin agency concerned under the terms established in this Decree. **9**

However, the works for artificial accumulation of waters whose volume is less than two thousand (2,000) cubic meters of water are subject to a simple declaration made according to the terms stipulated in article 14 below.

For the application of the provisions above, the overall volume accumulated on a single property is taken into account.

Article 2: The artificial accumulation of untreated wastewaters is not authorized unless it is an integral part of a system for the treatment of those waters, approved by the hydrological basin agency concerned. **34, 42**

Article 3: The application for authorization is submitted to the director of the hydrological basin agency. It must include: **10, 19**

- 1) the applicant's identity and, if applicable, the identity of all the other persons who are duly authorized to represent the applicant;
- 2) the legal system governing the waters to be accumulated;
- 3) the type of accumulation building work to be done;
- 4) the location of the accumulation building work;
- 5) the volume of water to be accumulated, the water requirement and the planned use of the water;
- 6) the surface dimensions and the maximum depth of the water in the accumulation area;
- 7) the duration of the artificial accumulation.

The application must be accompanied by the following documents:

- a)* when the storage capacity of the structure to be built exceeds 50,000 cubic meters, a technical study prepared by a specialized organization;
- b)* when the storage capacity of the projected structure exceeds 50,000 cubic meters, an impact study;
- c)* an appropriate location map;

d) a drawing of the construction works needed for the accumulation;

e) a diagram of the projected facilities;

f) a certificate attesting to the applicant's ownership of the land on which the water will be accumulated, or proving that the owner has ceded to the applicant the right to operate it.

Applications for authorization of artificial accumulation of water must be submitted by double registered mail or hand delivered against receipt to the hydrological basin agency concerned. However, they may be submitted or hand delivered under the same terms to the competent water departments due to the location of the accumulation. The said water departments shall be responsible for transmitting the application to the hydrological basin agency concerned. **1**

Article 4: The technical study stipulated in article 3 above must include, among other indications, the following: **11, 20, 29**

A – When the artificial accumulation is to be achieved with a dam:

- 1) The coordinates of the site where the dam is to be built;
- 2) the characteristics of the work:

- the type of dam (gravity, hollow, arch, earth or other) and the characteristics of the aggregates and admixtures that will be used;

- when the dam is to be built of earth, the borrow pits, the characteristics of the materials and the compaction resources;

- the characteristics of the embankment, particularly its volume, height and crest length;

3) the watercourse regimen: drainage basin surface area, average annual rainfall, annual average streamflow, minimum and maximum streamflows observed;

4) the geology of the site;

5) Reservoir: **41**

- legal system and the total surface area of the flooded lands;

- the surface area of the water body;

- the high and normal water marks, the heights of the various intakes;

6) the works and adjoining facilities: bottom outlets, intakes and spillways, in particular.

A – When the artificial accumulation is to be achieved with other works than dams:

- the accumulation works site coordinates;

- the legal system and the total surface area of the lands to be occupied;

- the shape and dimensions of the work;

- the geology of the site.

Article 5: The impact study provided for in paragraph *b*) of article 3 above must deal with the consequences of the accumulation, and particularly the consequences as they affect: **12**

1) the watercourse regimen and the management and utilization of the waters from the said watercourse;

2) when the work will not be constructed on lands belonging to the applicant or included in the hydrological public domain, the populations concerned: **28**

- the number of homes;
- the number of farms to be flooded;
- the methods and procedures for compensating the people affected;

3) the downstream populations: 33

- a drawing of the floodable downstream surfaces in the event that the dam breaks;
- the measures to take to reduce the damage that may be caused by such flooding.

Article 6: The basin agency has a maximum of two (2) months from the date of reception of the dossier described above to grant or refuse the authorization. 2
The refusal of the authorization must state the reasons.

Article 7: The authorization granted establishes, among other terms: 21

- the duration and, as appropriate, the periods for construction works;
- the volume of water to accumulate;
- the use of the water;
- the rules governing operation, maintenance and conservation of the built structures;
- the measures to take to avoid any negative impact of the work on the environment;
- the term of the authorization, which may not exceed 50 years;
- the conditions governing modifications, renewal and transfer.

Article 8: The construction works may not begin before the authorization is granted, and the priming may not take place without certification of the compliance of the completed work with the prescriptions stated in the authorization. This certificate must be issued by a public laboratory designated by the Ministry of Infrastructures. 30

When, in the course of the construction work, any element included in the study stipulated in article 4 above is modified, the agency must immediately be notified. 3

Article 9: The basin agency may make checks to verify the state of the work and prescribe, if need be, the measures to be taken by the operator as well as the execution time within which they must be taken, which can be as short as 24 hours if the circumstances demand such a tight deadline. Once this execution time has elapsed, if the interested party has not taken the prescribed measures, the basin agency shall make the necessary repairs at the interested party's expense. 32, 35

Article 10: The renewal of the authorization of the artificial accumulation of waters is accomplished by the recipient's applying for renewal six (6) months before the expiration of the authorization in effect, and after an assessment of the accumulation structures and its appendices. The assessment is conducted, at the interested party's expense, through the good offices of the basin agency. 22

Article 11: The authorization may be revoked without compensation when its terms are not fulfilled. 23

Article 12: The authorization issued by virtue of this Decree does not exempt the interested party from complying with other declarations or authorizations provided for in the legislation and regulation in effect. 4, 24, 38

Article 13: Any change of one or more elements that helped enable the artificial water accumulation authorization to be granted must be conveyed to the hydrological basin agency concerned, within one month of the change. 25

Article 14: The declaration of artificial water accumulation cited in the second paragraph of article 1 above is delivered against receipt to the hydrological basin agency concerned. 13

Beyond the information indicated in paragraphs 1 to 6 of article 3 above, the declaration must state: 14

- the type of accumulation structure;
- when the accumulation is under ground, the depth at which the water is stored;
- the characteristics of the structure.

The declaration must be accompanied by the documents specified in points *c*), *d*), *e*) and *f*) of article 3 above. 15

The registrant may only begin the works after a period of thirty (30) days from the date on which declaration was delivered against receipt. 31

During this period, the hydrological basin agency may make whatever comments it deems appropriate. The agency must give reasons for any opposition to the declaration. 26

Article 15: The artificial water accumulation structures that already exist on the date of publication of this Decree must be recorded in a declaration within three years from the said date. 27, 40

This declaration must include the indications provided for in paragraphs 1 to 7 of article 3 above, and be accompanied by: 16

- a drawing of the location;
- a drawing of the built structures;
- a diagram of the existing facilities.

This declaration is equivalent to an application for authorization of the artificial water accumulations subject to authorization. 17

Article 16: Certified true copies of the declarations received and of the authorizations granted, as well as of their modification, revocation, withdrawal or transfer are transmitted by the director of the hydrological basin agency to the Minister of Infrastructures. 5, 18

Article 17: Article 10. – Pursuant to the provisions of article 99 of the above-cited law n° 10-95, and until each hydrological basin agency is created, the responsibilities and roles recognized by this decree to the said agencies are exercised by the Ministry of Infrastructures. 6, 38

Article 18: The Minister of Agriculture, Infrastructures and the Environment is responsible for the execution of this Decree, which shall be published in the Official state gazette. 7. 36