

## Water Governance Benchmarking Criteria

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### **A. GOVERNANCE FUNCTIONS**

#### **1. Organizing and building capacity in the water sector**

- 1.1 Creating and modifying an organizational structure [1, 2](#)
- 1.2 Assigning roles and responsibilities [3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21](#)
- 1.3 Setting national water policy [22](#)
- 1.4 Establishing linkages among sub-sectors, levels, and national sub-regions
- 1.5 Establishing linkages with neighboring riparian countries
- 1.6 Building public and political awareness of water sector issues [23](#)
- 1.7 Securing and allocating funding for the sector [24](#)
- 1.8 Developing and utilizing well-trained water sector professionals [25, 26](#)

#### **2. Planning strategically**

- 2.1 Collecting, managing, storing and utilizing water-relevant data [27, 28, 29, 30, 31, 32](#)
- 2.2 Projecting future supply and demand for water
- 2.3 Designing strategies for matching expected long-term water supply and demand and dealing with shortfalls (including drought mitigation strategies)
- 2.4 Developing planning and management tools to support decision making [33, 34, 35, 36](#)

#### **3. Allocating water**

- 3.1 Awarding and recording water rights and corollary responsibilities
- 3.2 Establishing water and water rights transfer mechanisms [37](#)
- 3.3 Adjudicating disputes
- 3.4 Assessing and managing third party impacts of water and water rights transactions

#### **4. Developing and managing water resources**

- 4.1 Constructing public infrastructure and authorizing private infrastructure development [38, 39, 40](#)
- 4.2 Forecasting seasonal supply and demand and matching the two
- 4.3 Operating and maintaining public infrastructure according to established plans and strategic priorities [41](#)
- 4.4 Applying incentives and sanctions to achieve long and short term supply/demand matching (including water pricing)
- 4.5 Forecasting and managing floods and flood impacts

#### **5. Regulating water resources and services**

- 5.1 Issuing and monitoring operating concessions to water service providers [42, 43, 44, 45, 46, 47, 48, 49](#)
- 5.2 Enforcing withdrawal limits associated with water rights [50](#)
- 5.3 Regulating water quality in waterways, water bodies, and aquifers (including enforcement) [51](#)
- 5.4 Protecting aquatic ecosystems [52, 53](#)
- 5.5 Monitoring and enforcing water service standards

## **B. GOVERNANCE PROCESS CHARACTERISTICS**

1. **Transparency.** 54, 55, 56, 57, 58, 59, 60, 61
2. **Participation.** 62, 63, 64
3. **Accountability and Integrity.** 65, 66, 67, 68, 69
4. **Rule of law.** 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86
5. **Coherency and Integration.**
6. **Responsiveness.** 87, 88

## **C. CROSS CUTTING CATEGORIES**

### **1. Water Sources**

- 1.1 Surface water 89
- 1.2 Groundwater 90, 91, 92, 93, 94
- 1.3 Derivative water (reclaimed, reused, desalinated)

### **2. Water Uses**

- 2.1 Irrigation 95, 96, 97, 98, 99
- 2.2 Municipal
- 2.3 Industrial
- 2.4 Environmental
- 2.5 Hydropower 100, 101
- 2.6 Fisheries, navigation, recreation
- 2.7 Other uses (including social, esthetic, and religious uses) 102

# **Decree no. 2-97-487 of 6 Chaoual 1418 (4 February 1998) establishing the procedure for granting authorizations and concessions relative to the hydrological public domain** 22, 51

## **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 articles 12 (paragraph b3), 36 to 48 and 79 to 85; 70

After examination by the Council of Ministers meeting on 18 Ramadan 1418 (17 January 1998),

## **Decrees:**

### **Chapter 1: Applications for authorizations or concessions**

**Article 1:** Subject to the provisions of article 83 of the above-cited Law no. 10-95 and of articles 22 and 24 of this Decree, applications for authorizations or concessions relative to the hydrological public domain provided for, respectively, in articles 38 and 41 of the said Law no. 10-95, are submitted to the director of the hydrological basin agency concerned, and must contain the following indications: 27, 42, 71

- 1) the applicant's identity and, if applicable, the identity of all other persons who are duly authorized to represent the applicant;
- 2) the location of the proposed construction work or of the water catchment facility, water intake for hydroelectric power production or of the portion of the hydrological public domain that is the subject of the application, by specifying the Lambert coordinates; 38, 100
- 3) the average flow rate to be abstracted;
- 4) the installation characteristics of the catchment to be constructed, its consistence and the maximum hourly flow rate to be collected;
- 5) the planned use of the water or the portion of the public domain water concerned;
- 6) the probable depth of the work and the water-bearing levels collected or to be collected, the architecture of the work, to include the equipment, when groundwaters are involved;
- 7) the surface area to irrigate when irrigation is involved, or to be prepared when the preparation and development of lakes, ponds or marshes is involved; 89, 95
- 8) the place projected for discharging wastewaters, their volume, their quality and their general characteristics, when the applicant must discharge wastewaters.

The application must be accompanied by the following documents:

- a) a deed in which the applicant gives proof of having the right of free disposal of the land on which the proposed works or installations are to be made;

- b) an appropriate location drawing indicating the water points and public works such as bridges, canals or dams existing within a radius of one (1) kilometer;
- c) a diagram of the projected facilities;
- d) the agricultural project when the authorization requested involves abstracting water for irrigation purposes; this project must be accompanied by a study reflecting the impact on water resources, arable lands and aquatic ecosystems; **52, 96**
- e) a copy of the authorization decision cited in articles 13 to 19 of this Decree, when the application involves abstraction of groundwaters requiring a well or borehole subject to authorization by virtue of articles 13 to 19 of this Decree; **72, 90**
- f) as appropriate, when the application entails the development of lakes, ponds or marshes, the artificial accumulation of water on the hydrological public domain or the establishment of a hydroelectric plant on the hydraulic public domain, a study relative to the repercussions of this development, accumulation or establishment on the hydrological public domain and its users, as well as on public hygiene and community sanitation. The terms of reference of this study shall be established by a joint order of the government authorities responsible for infrastructures and the environment. **3, 33, 101, 102**

Applications for authorizations or concessions are drafted on or by following printed forms furnished by the hydrological basin agency, and must be submitted by double registered mail, or hand delivered against receipt, to the agency. **4, 43**

However, these printed forms may be provided by the water departments which are competent by reason of the location of the abstraction point of the water or portion of the hydrological public domain, coming under the competence of the ministry responsible for infrastructures, and the applications cited above can be sent or hand delivered to the said water departments according to the same terms indicated above. **5**

## **Chapter II: Public inquiry**

**Article 2:** The special committee specified in subparagraph 2e of article 36 of the above-cited Law no. 10-95 is composed of: **1, 73**

- the representative of the competent local administrative authority based on the location of the area to be established, chairman;
- the representative of the prefectorial or provincial departments of the ministry responsible for infrastructures, and the representative of the regional agricultural development office concerned when the proposed water abstraction is to be done in his area of action;
- the representative or representatives of the prefectorial or provincial departments of the ministries under whose competence the user sector falls;
- the representative of the hydrological basin agency concerned, secretary;
- the representative of the commune or communes affected.

The committee chairman may, after hearing the committee's opinion, invite, in an advisory capacity, any persons who may be able to help the inquiry committee in its investigations. **6**

**Article 3:** The opening of the public inquiry stipulated in article 36 of the above-cited Law no. 10-95, which shall not last longer than thirty (30) days, is ordered by the decision of the hydrological basin agency director. This decision must mention: **28, 54, 62, 74**

- the dates on which the inquiry operations are to be opened and closed;
- the place of the inquiry;
- the location of the abstraction point of the water or portion of the hydrological public domain concerned;
- the inquiry committee members;
- the place where the inquiry dossier is deposited as well as the record that will collect the interested parties' comments.

This record remains at the public's disposal during the entire duration of the inquiry. **55**

**Article 4:** The inquiry opening order mentioned above is published through the good offices of the hydrological basin agency director in the Official state gazette (edition devoted to legal, judiciary and administrative announcements) and / or inserted in at least two journals of legal announcements and made known to the public through the good offices of the local administrative authority by all means it considers appropriate. **56**

It is also displayed in the premises of the hydrological basin authority, the local administrative authority and in the offices of the commune. This display is verified, at the end of the inquiry, by certificates placed in the inquiry dossier by the local administrative authority and the chairman of the communal council. **57**

In compliance with the provisions of article 36 of the above-cited Law no. 10-95, the publicity operations provided for above shall take place at least 15 days before the date on which the inquiry opens. **23, 75**

**Article 5:** Throughout the inquiry, the local administrative authority shall place at the public's disposal, in the offices of the commune or communes concerned, the inquiry dossier, which must include the interested party's request, the documents accompanying the request and a record of comments, numbered and initialed through their good offices, destined to receive the remarks and possible claims of third parties. **58, 63, 65**

**Article 6:** When the public inquiry has been completed, the committee, meeting at the behest of its chairman, shall examine the remarks and claims added to the comment record and, if the committee deems it useful, shall proceed to the site to verify the remarks made. The committee shall then draw up a report within ten (10) days of the date of its meeting. **7, 87**

The report must be signed by all the committee members and contain its reasoned opinion.

### **Chapter III: The authorization**

**Article 7:** On the basis of the public inquiry dossier, the report, the record of comments and the committee's opinion, the basin agency director decides the response to be given to the application for authorization. **8, 44, 66, 76**

All refusals of authorizations must be explained and notified to the interested party within the time limit stipulated in article 36 of the above-cited Law no. 10-95.

**Article 8:** According to the provisions of article 103 of the above-cited Law no. 10-95, authorizations concerning the operations provided for in paragraphs 2, 3, 5 and 8 of article 38 of the said law are subjected by the agency director to the opinion of the chairman of the communal council concerned. 67, 77

**Article 9:** The decision regarding the authorization must contain: 45

- 1) the beneficiary's identity;
- 2) the term of validity of the authorization;
- 3) the flow rate authorized;
- 4) the place where the water is withdrawn and its Lambert coordinates;
- 5) the number of wells or boreholes to be used to abstract groundwater as well as their respective Water Resource Inventory numbers; 91
- 6) the use to be made of the water;
- 7) the identification and the surface area of the lot on which the water is to be used;
- 8) the surface area to be irrigated when the water is to be used for irrigation; 97
- 9) the surface area of the hydrological public domain lot to be occupied by works or facilities for water abstraction, as well as the terms governing this occupation; 39
- 10) the user fee for water abstraction and, as applicable, the user fee for temporarily occupying the hydrological public domain; 24
- 11) the characteristics of the wells or boreholes authorized and of all other water collection works;
- 12) the measures to be taken to avoid polluting the waters or the possible interconnection of groundwater bodies, in cases of groundwater abstraction; 53, 92
- 13) the terms of extension or renewal of the decision;
- 14) the terms regulating water collection when it is done in a public work.

The Water Resource Inventory number indicated in paragraph 5 above is the number assigned by the basin agency or, as appropriate, by the competent departments of the ministry responsible for infrastructures, to each water point inventoried as well as to boreholes, wells, springs or dams. 9, 41

**Article 10:** All applications for assignment or transfer of the authorization within the purview of the dispositions of article 39 of the above-cited Law no. 10-95 must be submitted by the beneficiary to the director of the hydrological basin agency concerned, who will have a time limit of two months from the date of the presentation of the application to grant or refuse approval. All refusals of approval must be explained. 10, 37, 78

**Article 11:** The threshold of water abstraction from the groundwater body specified in article 38 (paragraph 5) of the above-cited Law no. 10-95 is set, for each area over the entire expanse of the groundwater body, by an order from the minister responsible for infrastructure at the initiative of the director of the hydraulic basin agency concerned. This order is based on a technical study regarding, among other subjects, the hydrological and hydrogeological aspects of the groundwater body, the uses of the groundwaters contained in the body and the quality of those waters. 11, 29, 34, 50, 79, 93

#### Chapter IV: Concession

**Article 12:** On the basis of the public inquiry dossier, the report, the record of comments and the committee's opinion, the basin agency director decides on the response to be given to the application for concession. 12, 46, 68

If response is favorable, this concession must first receive the approval of the agency's board of directors.

All refusals of concessions must be explained and notified to the interested party within the time limit stipulated in article 36 of the above-cited Law no. 10-95

### **Chapter V: Specific provisions regarding well digging and drilling**

**Article 13:** The applications for authorizations or concessions relative to well digging and drilling provided for in article 38 of the said Law no. 10-95, whose depth surpasses the threshold specified in article 18 of this Decree, are made and the authorizations of the said operations are issued in the same way and according to the same terms established by this Decree, subject to the provisions of this chapter. 47, 80

**Article 14:** The application for authorization must include, in addition to the indications stated in paragraphs 1, 2, 4 and 6 of article 1 above, the probable duration and the projected dates of the beginning and completion of the well digging or drilling works. 30, 35

The application must be accompanied by the documents indicated in paragraphs a and b of the same article.

**Article 15:** The special committee specified in subparagraph 2e of article 36 of the above-cited Law no. 10-95 is composed of: 2, 81

- the representative of the competent local administrative authority based on the location of the well digging or drilling, chairman;
- the representative of the prefectorial or provincial departments of the ministry responsible for infrastructures;
- the representative of the hydrological basin agency concerned, secretary.

The inquiry may not last more than fifteen (15) days and the decision to open the inquiry is published in a journal of legal announcements and displayed according to the provisions of article 4 (subparagraph 2) above. 59, 64

**Article 16:** In addition to the elements indicated in paragraphs 1, 2, 4, 10, 11 and 12 of article 9 above, the decision to authorize the well digging or drilling must specify: 40

- the conditions of use of explosives and chemical products;
- the digging or drilling method;
- the characteristics of the piping to be used;
- the conditions governing the restoration of the site to its original state;
- the distance to maintain from the water points and the public works existing within a radius of one thousand (1,000) meters.

**Article 17:** Upon completion of the well digging or drilling work, the beneficiary of the authorization is required to place at the disposal of the hydrological basin agency concerned, within sixty (60) days of the end of the work, in quadruplicate, an end of work report including: 13, 31

- the results of the pumping tests;
- the water encroachments, specifying the height, the dry residue and the temperature of the water;

- the logs and chemical and bacteriological analyses;
- the results of the development operations, particularly the number of acidifications, the initial and final flow rates with drawdown;
- the field samples at the level of each meter of dug or drilled land.

The pumping tests and the installation of the piping may take place only in the presence of the representative of the hydrological basin agency concerned, who shall establish, before the said pumping tests, the geological section of the well or borehole. [14](#), [25](#)

**Article 18:** The well digging or drilling depth threshold specified in article 26 of the above-cited Law no. 10-95 is set for each area according to the expanse of the groundwater body, by an order from the minister responsible for infrastructures issued at the initiative of the director of the hydraulic basin agency concerned. This order is based on a technical study regarding, among other subjects, the hydrological and hydrogeological aspects of the groundwater body, the depth of the body, the evolution of its drawdowns and the quality of its waters. [15](#), [26](#), [32](#), [36](#), [82](#), [94](#)

**Article 19:** The beneficiary of the well digging or drilling authorization is required to immediately advise the hydrological basin agency concerned of the influences on the points mentioned of the demand observed during the execution of the works, and incidents occurring on the site of the works. [16](#)

## Chapter VI: General provisions

**Article 20:** The authorization decision or the concession contract must be shown during all checks performed by the agents cited in article 104 of the above-mentioned Law no. 10-95, on the sites of the utilization of the hydrological public domain identified in the authorization or concession. [48](#), [69](#), [83](#)

**Article 21:** Certified true copies of the authorizations and concessions granted, as well as of their modification, revocation, withdrawal or transfer, are transmitted by the director of the hydrological basin agency to the minister responsible for infrastructures. [17](#), [49](#)

**Article 22:** In the action areas of the regional agricultural development offices, the responsibilities assigned by this Decree to the basin agencies for the granting of authorizations to abstract water to be used for irrigation purposes are exercised by the said offices. [18](#), [98](#)

Certified copies of the authorization orders concerning the abstraction of water for agricultural use, as well as their modification, revocation, renewal, withdrawal or transfer, issued within the action areas of the regional agricultural development offices, are conveyed by the government health authority to the director of the hydraulic basin agency concerned and to the minister responsible for infrastructures. [19](#), [99](#)

## Chapter VII: Transitional and final provisions

**Article 23:** Subject to the provisions of article 24 above and pursuant to the provisions of article 27 of the above-cited Law no. 10-95, all abstractions of water existing on 24 Rabii II 1416 (20 September 1995) must, within three (3) years of the date of publication of this Decree in the Official state gazette, be formally declared by their users to the director of the hydrological basin agency concerned. [60](#), [84](#)

The provisions of the preceding subparagraph are also applicable to waters abstracted between the

date specified above and the date of publication of this Decree in the Official state gazette, pursuant to the stipulations of article 98 of the above cited Law no. 10-95. 85

**Article 24:** 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 responsible for infrastructures. 20, 86

**Article 25:** The provisions of the Order of 11 Moharrem 1344 (1 August 1925) relative to the application of the Dahir (Royal Decree) of 11 Moharrem 1344 (1 August 1925) regarding the water regime are repealed as regards authorizations and concessions of water abstractions. 88

**Article 26:** The Minister of State for the Interior, the Minister of Agriculture, Infrastructures and the Environment are responsible, each in his own domain, for the execution of this decree, which shall be published in the Official state gazette. 21, 61

*In Rabat, 6 Chaoual 1418 (4 February 1998)*

**Abdellatif Filali**

By countersignature:

*The Minister of State for the Interior,*

**Driss Basri**

*The Minister of Agriculture,*

*Infrastructures and the Environment,*

**Abdelaziz Meziane Belfkih**