

Water Governance Benchmarking Criteria

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- 6. Responsiveness.** 63, 64

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Decree no. 2-97-657 of 6 Chaoual 1418 (4 February 1998) relative to the delimitation of protected areas and preservation and prohibition zones 14

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 49, 50 and 63; 54

After examination by the Council of Ministers meeting on 18 Ramadan 1418 (17 January 1998), 63

Decrees:

Chapter 1: Provisions relative to protected areas

Article 1: The immediate protection areas cited in article 2, paragraph c) of the above-mentioned law no. 10-95 are delimited according to the provisions of the decree relative to the delimitation of public domain waters, the correction of waterways and the extraction of materials. 55

Article 2: The establishment of proximate or distant areas cited in article 2 paragraph c) of the above-mentioned law no. 10-95 is done on the basis of a study which must include, in particular, a hydrological and hydrogeological report and a report assessing the quantitative and qualitative state of the resource, of its vulnerability to the dangers of pollution or degradation and, as appropriate, of the risks incurred by constructed facilities. 24, 56

Article 3: The proximate protection areas cited in article 63 paragraph b) of the above-mentioned law no. 10-95 are established either on the initiative of the government authority responsible for infrastructures or at the request of the organization that operates the water abstraction point, based on a study covering the elements mentioned in article 2 above. 57

Article 4: The report and the studies mentioned in article 2 above are prepared by the government authority responsible for infrastructures or by the organization that operates the water abstraction point when the area is established on its initiative.

If need be, the government authority responsible for infrastructures may conduct or, when proximate protection areas are established at the request of the operating organization, may ask for the additional studies to be conducted that it considers necessary and whose component elements it specifies. 20

The above-cited report and studies are subject to the opinion of the minister responsible for the environment, as well as the minister responsible for marine fisheries when estuaries are concerned. 73

Article 5: The proximate and distant protection areas are delimited after a public survey lasting no longer than thirty (30) days, prescribed by an order from the government authority responsible for infrastructures and entrusted to a committee composed of: 38, 47

- the representative of the competent local authority based on the location of the area to be established, chairman;
- the representative of the prefectorial or provincial departments that work in liaison with the Ministry of Infrastructures, secretary;

- the representative of the prefectorial or provincial departments working in liaison with the Ministry of Agriculture;
- the representative of the departments of the Ministry of the Environment;
- the representative of the hydrological basin agency concerned;
- the representative of the commune or communes concerned;
- and, as applicable, the representative of the organization concerned.

The committee chairman may, after hearing the committee's opinion, invite, in an advisory capacity, any persons who may be able to help the survey committee in its investigations. **1, 19**

Article 6: The opening of the public survey is prescribed by order of the government authority responsible for infrastructures. This order must mention: **2, 39, 48**

- the dates on which the survey operations are to be opened and closed;
- the place of the survey;
- the location of the area to be established;
- the list of the survey committee members;
- the place where the survey 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 survey. **40, 52**

Article 7: The survey opening order mentioned above is published through the good offices of the government authority responsible for infrastructures 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. **18, 41**

It is also displayed in the premises of the local administrative authority and in the offices of the commune. This display is verified, at the end of the survey, by certificates placed in the survey dossier by the local administrative authority and the chairman of the communal council. **49**

The publicity operations provided for above shall take place at least 15 days before the date on which the survey opens.

Article 8: Throughout the survey, the local administrative authority shall place at the public's disposal, in the offices of the commune or communes concerned, the survey 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. **21, 28, 42, 50**

Article 9: When the public survey 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. **3, 43, 51**

The report must be signed by all the committee members and contain its reasoned opinion. **4**

Article 10: The operations of the survey committee are approved in a decree to which a copy of the delimitation plan is attached as proposed by the government authority responsible for infrastructures. **53**

Article 11: The decree that establishes the easement areas sets their dimensions and may prohibit or regulate the following activities entirely or in part:

- drilling, well digging, the operation of quarries or open-pit mines;
- the installation of solid waste disposal sites for wastes of urban or industrial origin that are likely to hinder the good conservation of waters; **34, 72**
- the installation of disposal sites or reservoirs for liquid chemicals, hydrocarbons or wastewater;
- the transportation of products or materials that are detrimental to water; **77**
- the spreading of manure or chemical fertilizers, and the grazing of animals;
- the construction or rebuilding of surface or underground buildings;
- sports or nautical activities, in particular on the waters or shores of lakes and artificial lakes whose waters are used to supply drinking water to populations ; **35, 69, 74**
- the establishment of cow-houses;
- the creation of cemeteries;
- the use of chemical products in agriculture;
- the pursuit of leisure activities; **75**
- the creation of new thoroughfares or new industrial units;
- polluting forestry activities;
- the use or dumping of radioactive products.

Article 12: Inside the distant protection areas, the decree cited in article 11 above may regulate the activities, installations or disposal sites that, taking into account the nature of the terrains, represent a danger of pollution affecting the waters, due to the nature and quantity of polluting products associated with those activities, installations or disposal sites. **33, 36**

Article 13: When the delimitation of a proximate protection area and a distant one takes place, a single survey can be prescribed for the two areas and their delimitation pronounced in a single decree.

Article 14: The government authority responsible for infrastructures or the organization that operates the water abstraction point, when the protection areas are established at its request, is responsible for marking the boundaries of these areas on the terrain. **5**

Article 15: The competent administrations must, in their respective domains, ensure the implementation of the related regulations relative to classified facilities, quarries and urban development. **6, 30**

Chapter II: Provisions relative to preservation and prohibition zones **37**

Section I: Preservation zones

Article 16: The preservation zones provided for in article 49 of the above-cited law no. 10-95 are delimited by decree at the request of the government authority responsible for infrastructures after considering the opinion of the government authorities responsible for agriculture and the interior. **7, 58**

The above-cited decree is subject to the opinion of the minister responsible for the environment, as well as the minister responsible for marine fisheries when estuaries are concerned. **8, 76**

Article 17: The decree delimiting the preservation zones is drafted on the basis of a technical dossier prepared by the government authority responsible for infrastructures, which contributes all the elements required for the determination of the dimensions of these zones as well as the

restrictions that are applicable to them. [9](#), [22](#), [25](#)

The documents comprising this technical dossier must include the following: [23](#), [26](#)

- a hydrological and hydrogeological study;
- a study relative to water quality when the area in question is a prohibition zone;
- a study relative to existing and projected water abstraction points;
- an appropriate map drawn to scale showing the boundaries of the proposed preservation or prohibition zone;
- a study relative to the existing or projected wastewater discharge points, and the use of chemical products;
- the exhaustive list of the uses made of the abstracted waters;
- the principles governing the management of the water table, when a prohibition zone is involved.

Article 18: As of the publication date of the decree delimiting the preservation zone in the Official state gazette, the operations and works indicated in article 49 of the above-cited law no. 10-95 are subject to the previous authorization by the hydrological basin agency concerned or by the Regional agricultural reclamation office when the water to be abstracted is intended for agricultural use inside its area of action. [10](#), [44](#), [59](#), [67](#), [70](#)

These authorizations are issued and, if necessary, modified or withdrawn in accordance with law no. 10-95 on water and with decree no. 2-97-487 of 6 Chaoual 1418 (4 February 1998) setting the procedures for granting authorizations and concessions relative to public domain waters.

Article 19: Inside the preservation zones, an authorization to abstract groundwater, to dig or to drill may in no case be extended to apply to several wells, drillings or other abstraction points, even if they are located on the same land. [27](#), [29](#), [65](#)

Authorizations to dig, replace or rework a well, a drilling or any other water abstraction works are issued for one year, and are renewable.

Section II: Prohibition zones [15](#)

Article 20: The prohibition zones cited in article 50 of the above-cited law no. 10-95 are established according to the provisions of articles 16 and 17 of this decree. [60](#)

Article 21: Inside prohibition zones, as of the date of publication of the decree delimiting the prohibition zone in the Official state gazette, no authorization nor concession of water abstraction can be issued if the waters abstracted are not entirely used for human consumption or watering livestock. These authorizations and concessions are granted in accordance with law no. 10-95 on water and with decree no. 2-97-487 of 6 Chaoual 1418 (4 February 1998) setting the procedures for granting authorizations and concessions relative to public domain waters. [31](#), [45](#), [61](#), [68](#), [71](#)

Section III: Common provisions

Article 22: Authorizations to abstract groundwater issued pursuant to this decree shall be the subject of verifications by the agents appointed for this purpose. [66](#)

If the verifications reveal that the discharges used by a licensee during the term of the authorization to abstract water from which he has benefited are less than those he was authorized to abstract, the

corresponding authorization may be reduced accordingly without his being entitled to compensation for damages. 32

Article 23: The duly appointed and sworn agents may require the owner of a water abstraction facility to start up his facilities so that their characteristics can be verified. 11

They shall proceed, if need be, to verify any infractions.

Article 24: When the conditions that prevailed at the time of the delimitation of the preservation or prohibition zone have disappeared, the decree enacting that delimitation is repealed in the same way in which it was issued. 16

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 the establishment of protection areas. 17, 64

However, pursuant to the provisions of article 99 of the above-cited law n° 10-95, and while awaiting the creation of the basin agencies, the responsibilities and roles assigned by this decree to the said agencies are exercised by the government authority charged with infrastructures. 12, 62

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. 13, 46

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