

# Rewilding in Portugal

## Dam Removal

*Agricultural fields, Greater Côa Valley.  
Ricardo Ferreira / Rewilding Europe*

### Core topics

- Steps to remove a small dam
- Obligations of the landowner / land manager
- Dam removal in classified areas

### Key takeaways

- 1 To remove a small dam on your land, you need to contact the competent authorities.
- 2 You may need to get an authorisation to use water resources and a demolition permit to remove the dam.
- 3 You are responsible for all associated works and costs.
- 4 If the dam is in a protected area, you may need to go through an EInCA procedure first.

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### 1. What is dam removal?

Rewilding landscapes may have in their area small dams that were installed to help drain the soil and to provide a permanent source of water for livestock. Although artificial ponds may be welcome to boost the biodiversity of a landscape, you may want to remove obsolete dams because they block the natural flow of rivers and streams.

If you're planning on removing a small dam on your land, this note provides useful information for

questions that may rise in dam removal. However, it is recommended that you undertake the necessary actions to prevent any damage to your land and to neighbouring property.

For the purpose of this note, a small dam is a dam that is below 10 metres high regardless of its capacity, or 10 meters high or more but below 15 metres high if its capacity is equal to or below 1 hm<sup>3</sup>.<sup>1</sup>

### 2. Can I simply remove a small dam from my land?

No. The removal of dams does not depend solely on the will of the landowner.

Considering that the operation of small dams built in private river beds, edges or waters is supposed to occur under an authorisation<sup>2</sup>, in principle issued by the environmental agency – APA<sup>3</sup> –, their removal

must be done in compliance with the provisions of the authorisation and in coordination with the agency in question.

For more detailed information on construction authorisations, see *Rewilding in Portugal: Developing Land*.

### 3. What steps do I need to take to remove a small dam from my land?

An authorisation is required to build and operate a dam and it may also be necessary to obtain another authorisation from APA to demolish it, as the watercourse is being subject to changes, i.e., an intervention in the hydric domain will occur.<sup>4</sup>

Furthermore, if the authorisation for the operation already regulates the removal of the dam, the

obligations set out in it on that matter must be complied with. Considering that the authorisation to operate a small dam does not expire, when the landowner wants to stop using the facility and remove it, the competent authorities must be informed in advance, and the requirements they impose must be followed.

#### 4. Can I take the initiative to remove a dam if I'm only managing the land?

Regardless of the ownership of the land, the relevant criteria apply to whoever is the holder of the authorisation for the operation of the dam, or, if no authorisation exists, the person who is actually operating it. Only the holder of the authorisation can trigger the necessary procedures before the competent authorities to remove the dam.

Therefore, if you are managing the land of another person and operating a dam on that land when the authorisation is held by that other person, you cannot take the initiative to remove the dam. Any agreements made between the holder of the authorisation for the dam and its manager will not be effective before the competent authorities. Whether it is necessary to inform the APA that such an agreement has been made depends on a case-by-case analysis, as the intention of the law is that the authorities should be aware of who is actually taking benefits from the operation of the dam.



*White storks in flight, Greater Côa Valley.  
Ricardo Ferreira / Rewilding Europe*

## 5. If the dam is removed, is the practitioner only responsible for the removal works?

The holder of the authorisation (or the person who was actually operating the dam) is fully responsible for the removal works and their costs. The rationale is that you are responsible for the water resources you used for your own benefit while operating the dam.

Moreover, the holder of the authorisation may be obliged to restore the site to its pre-dam state as far as possible and to follow a monitoring plan if it is considered necessary by the competent authority.

Finally, if the removal works cause damage to the environment and to third parties, the holder of the authorisation is also liable for the repair of that damage.

### 5.1. What if the dam was already on the land when I acquired it?

It is possible that you acquire land which has dams that you do not wish to use, but rather demolish. In these cases, before the acquisition of the piece of land, the parties must decide who is going to address

the removal procedures, as only the holder of the authorisation can trigger them before the competent entities. As such, you, as the buyer, may:

- agree with the seller (original holder of the authorisation) that the authorisation will not be transferred to you and the seller will deal with the removal procedures before the acquisition; or
- agree with the seller that they will transfer the authorisation to you and that you will work to remove the dam. To execute the transfer, you and the seller must submit a simple prior communication to the issuing entity at least 10 business days before the transfer.<sup>5</sup>

Please note that this is a contractual arrangement between the parties, and, regardless of the choice they make, the costs can be divided as they wish.

In any case, the issuing entity will only communicate with the holder of the authorisation, and arrangements between the parties will not be effective before it.

### 5.2. Who is responsible for the associated costs?

The holder of the authorisation must bear the costs related to the removal of any dam.

However, following a 2016 ministerial order, the government took on the task of identifying obsolete hydraulic infrastructures (which includes dams) to remove them – and a very recent parliamentary resolution recommends the government to do so. In this context, it is possible that the authorities will take a permissive approach to promote the removal of obsolete dams, and there may be public funding available to support these actions.

## 6. The landscape where the dam is located is a classified area.

### What are the consequences for the removal?

In principle, the removal of a dam pursues the purposes already envisaged by the definition of classified areas, as it will restore the natural flow of water courses.

Nevertheless, considering that the removal works themselves may negatively impact the classified areas (and the fauna and flora inhabiting them), it may be necessary to comply with the additional protections established in the classified area's management instruments (see *Rewilding in Portugal: Developing Land* and *Rewilding in Portugal: Classified Areas*). Also, a EIncA may be required (see *Rewilding in Portugal: Classified Areas*).

#### Example

*Landowner A bought a property with a mixed nature: some is arable (used for growing crops), some is pasture where sheep graze, and there's a part of peatland that has a protected status for its ecological value in the region. Close to the pastures, there's a small dam (2 metres high) fed by a creek that crosses the property. The former owner used the dam to irrigate and as a drinking fountain for animals. There is also a 5-bedroom house, which used to be the family house of the former owner. Landowner A intends to restore the natural course of the creek that crosses their land. This would require removing the small dam on the property that used to be use for irrigation, stop growing crops, and allow natural succession. This would change the mixed nature of the land in a dynamic way as it would depend on the season and volume of water.*

If the former owner held an authorisation for the operation of the dam, then he and Landowner A should have submitted to issuing authority a prior communication concerning the transfer of the authorisation to Landowner A at least 10 business days before the transfer.

After that, Landowner A, as the holder of the authorisation, is under an obligation to communicate to the competent authority the plan to remove the dam and comply with its requirements. This procedure must also be followed if no authorisation was held by the former owner. In short, Landowner A must not remove the dam before the competent authority is informed.

Furthermore:

- a) An authorisation for removing the dam and changing the watercourse may be necessary.
- b) Landowner A needs to request a prior licence from the municipality to engage in demolition works.
- c) After the demolition works are completed, Landowner A may be responsible for restoring the land to its original state and may also need to follow a monitoring plan, if it is considered necessary by the competent authority.

## Endnotes

- 1 Small dams are subject to specific rules on their safety, published in Annex II to Decree Law 21/2018 of 28 March, but it does not apply to the removal phase (only to phases concerning project, construction, first filling, operation and rehabilitation).
- 2 The Portuguese Environmental Agency - Agência Portuguesa do Ambiente, I.P. (APA).
- 3 Water Law (Law 58/2005, of 29 Decembre), article 62, n. 1 (b).
- 4 Any activities that change the state of bodies of water and endanger that state may be subject to previous authorisation (art. 62/1/d) of the Water Law, Law 58/2005).
- 5 The rules on the transfer of authorisations concerning private water resources (article 26 of DL 226-A/2007 and article 72 of the Water Law, Law 58/2005) has been changed recently by DL 11/2023, of 10 February. The previous rules required the presentation of a communication to the APA 30 business days in advance and, during that period, the APA could oppose the transfer. Now, the communication allows the transfer after the 10 business days and the applicants do not have to wait for the non-opposition of the APA. Moreover, the transfer is possible if the requirements that led to issuance of the authorisation are still met. However, it is not clear what the documents that can prove this are.

Noncompliance with these rules will cause the expiry of the TURH and it also constitutes a serious environmental administrative offence, punishable with a fine of between EUR 12,000 and EUR 216,000. Interim decisions and ancillary penalties may apply.

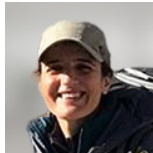
## Contact Us

More information about rewilding and the issues addressed in this guidance note is available on [The Lifescape Project](#) and [Rewilding Europe](#) websites.

If you have any queries, please contact:



**Elsie Blackshaw-Crosby**  
E: [elsie.blackshaw@lifescapeproject.org](mailto:elsie.blackshaw@lifescapeproject.org)



**Catarina Prata**  
E: [catarina.prata@lifescapeproject.org](mailto:catarina.prata@lifescapeproject.org)

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