

Unemployment Insurance Arising from Inclement Weather Conditions

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Abstract ;

Compensation for unemployment resulting from inclement weather conditions that prevent a worker from carrying out their activity under circumstances ensuring their health and safety represents a significant achievement for the social security system in Algeria. This achievement stems from the establishment of the National Fund for Paid Leave and Unemployment Due to Inclement Weather for the construction, public works, and irrigation sectors (CACOBATPH), which mitigates the negative effects of unemployment on workers, the national economy, and insurance institutions. The Fund has subsequently been expanded to include employees and workers in the forestry works and wired/wireless communications sectors. Furthermore, its mandate has been enlarged to encompass compensation for unemployment arising from extreme heat temperatures in the southern region, and it has recently added thirteen provinces from the high plateaus region.

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1. *Introduction*

The system of social insurance emerged in the second half of the nineteenth century and expanded during the early twentieth century following the economic crisis of 1929. However, this modern system did not begin to disseminate widely until after the Second World War.

The term "social insurance" was first employed in legislative context under United States legislation enacted on August 14, 1935, when the Social Security Act was promulgated to establish provisions for unemployment and old-age benefits.

In general terms, insurance denotes a set of mechanisms designed to compensate members of society, or a subset thereof, for the consequences of specific risks, which are numerous and originate from diverse sources. (Qasim, 1997, p. 8)

These risks include: hazards arising from natural phenomena, such as earthquakes and floods; hazards stemming from collective human existence, such as the risk of war; hazards to which individuals are exposed throughout their lives, including illness, disability, and death; and hazards associated with the practice of a particular profession, such as the risk of unemployment.

Revisiting social insurance systems across different countries, it can be asserted that there exists consensus among them regarding the list of risks that must be confronted and from which individuals should be protected against their consequences. The International Labour Convention No. 102, issued by the fifty-third International Labour Conference in 1952, enumerated these risks as follows: illness, maternity, disability, old age, occupational injury and occupational diseases, death, family responsibilities, and unemployment. This list has thus become the minimum standard for social insurance binding upon states signatory to this Convention. Furthermore, unemployment, old age, and occupational injury or disability were regarded as three indispensable risks requiring coverage. (Qasim, 1997, p. 12)

The Algerian legislator has adhered to this framework by insuring against these risks, with unemployment—particularly unemployment arising from inclement weather conditions, which constitutes the subject of our study—being among the most significant. Accordingly, we posit the following research problem: **What is the legal mechanism established by the Algerian legislator to ensure compensation for workers for unemployment resulting from inclement weather conditions? And which activity sectors are concerned?**

To address this research problem, the study is organized into two sections. The first section is dedicated to the concept of insured unemployment and the establishment of the fund responsible for compensation. The second section is devoted to the functions and organizational structure of the National Fund for Insurance Against Unemployment Due to Inclement Weather Conditions.

2: Insured Unemployment and the Compensation Fund

This section defines unemployment in general terms, elucidates the concept of unemployment arising from inclement weather conditions, examines its effects on both the worker and third parties, and traces the establishment of the fund tasked with compensating for this category of unemployment.

2.2 Definition of Unemployment and Its Effects

This requirement aims to define unemployment and analyze its consequences on the worker subject to compulsory assignment, the national economy, and insurance institutions.

2.2.1 Definition of Unemployment

It is necessary to clarify the general concept of unemployment before addressing the unemployment under study, namely that resulting from inclement weather conditions.

2.2.1.1 The General Meaning of Unemployment

Unemployment is defined as involuntary cessation of work due to failure to secure employment. Thus, cessation of work does not stem from the worker's inability to work due to illness or disability, but rather from the economic conditions surrounding the worker. Unemployment may be partial, occurring when an economic enterprise experiences a severe crisis leading it to reduce working hours or significantly lower wages. Additionally, seasonal unemployment exists, which affects workers in certain sectors during a specific season of the year. (Qasim, 1997, p. 12)

2.2.1.2 Unemployment Arising from Inclement Weather Conditions

Unemployment resulting from inclement weather conditions constitutes one category of seasonal unemployment affecting workers in certain sectors. Inclement weather causes workers to cease performing their duties in fields susceptible to meteorological conditions, thereby rendering them subject to compulsory unemployment. The insurance system for unemployment due to inclement weather serves as coverage designed to compensate employers in cases of activity cessation at work sites attributable to adverse weather conditions.

Consequently, risks encountered by workers during their activities at work sites are managed by a specialized fund that contributes to preserving the workforce in certain sectors.

Under Algerian legislation, an institution was established to protect workers and ensure the stability of enterprises in the construction, public works, and irrigation sectors for the purpose of preserving employment: namely, the National Fund for Paid Leave and Unemployment Due to Inclement Weather Conditions.

2.2.2 Effects of Unemployment

For the worker, unemployment signifies deprivation of income, deterioration of living standards, and an affront to human dignity, provided the individual remains capable of working. For the economy, unemployment results in the wastage of human capital by excluding a portion of the productive workforce, thereby reducing national income below its potential level.

The consequences of unemployment extend to the social insurance system, as its proliferation causes insured persons to lose their wages, consequently depriving insurance institutions of a critical source of funding. Given the severe implications of unemployment, most contemporary social legislations have prioritized protecting workers against this risk through insurance mechanisms. (Qasim, 1997, p. 372)

2.3 Establishment of the Compensation Fund

The National Fund for Paid Leave and Unemployment Due to Inclement Weather Conditions for the Construction, Public Works, and Irrigation Sectors (CACOBATPH) was established pursuant to Executive Decree No. 97/45 dated February 4, 1997. (97/45, 1997, p. 8)

Its creation was necessitated by the social and economic transformations and requirements encountered by national activity sectors, particularly the construction, public works, and irrigation sectors. These developments necessitated a special regulatory framework governing paid leave and unemployment due to inclement weather conditions for the benefit of workers in the aforementioned three sectors. (NFPHUR, without edition, p. 3)

Furthermore, this fund aligns particularly with the evolution of employment relations toward fixed-term contracts, which reinforces the mobility and instability that typically characterize work in the construction, public works, and irrigation sectors. Its establishment stems from the profound economic and social transformations and difficulties encountered by various national activity sectors. The fund reflects the necessity of organizing the management of paid leave and compensation for unemployment arising from inclement weather conditions for workers in the construction, public works, and irrigation sectors. Additionally, it was established to conform with the development of employment relations toward the generalization of fixed-term contracts, imposed by the fragility and mobility inherent in work within the aforementioned sectors (Noureddine, 2016, p. 342)

3. Functions and Organization of the Fund

This section examines the functions assigned to the National Fund for Paid Leave and Unemployment Due to Inclement Weather Conditions, as well as its organizational structure regarding membership, contributions, and compensation.

3.1 Functions of the Fund

Executive Decree No. 97/45 dated February 4, 1997, delineated the functions of the National Fund for Paid Leave and Unemployment Due to Inclement Weather Conditions, the most significant of which are:

- Managing paid leave and unemployment due to inclement weather conditions for the construction and public works sectors and irrigation.
- Registering beneficiaries and their employers.
- Informing beneficiaries and their employers.
- Collecting contributions stipulated in applicable legislation and regulatory provisions.
- Establishing financial reserves to ensure the payment of such compensation under all circumstances.
- Contributing to the creation of social services for workers and their beneficiaries within its field of competence. (NFPHUR, without edition, p. 4)

The Fund executes these functions under the supervision of the Ministry of Labor, Employment, and Social Security. It possesses legal personality and financial autonomy, and its administration is entrusted to a Board of Management headed by a General Director.

To perform its functions under optimal conditions, the Fund comprises a central body responsible for planning, research, and monitoring. Additionally, it includes local bodies: regional agencies and provincial agencies tasked with executing the Fund's functions effectively and proficiently.

The Fund currently encompasses fourteen regional agencies and fifteen provincial agencies, optimally distributed to bring the Fund closer to its members. Among these is the Blida Regional Agency, which covers the provinces of Média and Tipaza. The Fund's current objective is to strengthen its network to achieve coverage of all provinces throughout the nation. (NFPHUR, without edition, p. 5)

3.2 Organization of the Fund

This requirement addresses the Fund's organizational structure regarding the membership of employers and workers, the contribution rate, and the conditions for benefiting from compensation.

3.2.1 Membership in the Fund

Employers and wage-earning workers operating in the construction, public works, and irrigation sectors constitute the totality of the Fund's members. According to Law No. 83/14, amended and supplemented, concerning the obligations of persons subject to social security, employers comprise all institutions operating within the national territory, regardless of the sector to which they belong, their nationality, or their legal nature. (Law 83/14, 1983)

Workers, conversely, are workers in the construction, public works, and irrigation sectors who employ one or multiple employers during the activity period extending from July 1 of the preceding year through June 30 of the current year. The Fund determines the membership of these workers based on the employment contract, irrespective of the nature of the contract binding them to their employers, their qualifications, or the positions they hold. (NFPHUR, without edition, p. 6)

3.2.1.1 Cessation of Work Due to Inclement Weather Conditions

In the event of meteorological fluctuations—including rain, snow, frost, ice, strong winds, sandstorms, and floods—that render work impossible or dangerous to the health and safety of workers in the construction, public works, and irrigation sectors, Order No. 97/10, which establishes compensation for unemployment due to inclement weather and specifies the conditions and procedures for granting compensation, obliges employers possessing work sites exposed to the aforementioned weather conditions to cease work and pay compensation as stipulated by law. (NFPHUR, without edition, p. 4)

Work cessation is ordered by the employer or one of their representatives at the work site following consultation with the workers' representative, through completion of the form designated for this purpose, which specifies the reason for cessation (snow, strong winds, floods, etc.). This document is signed by the employing entity and the workers' representatives. In the absence of a union branch, the form is signed by the workers present at the work site where cessation occurred. The form is transmitted to the Fund's territorially competent services within a maximum period of forty-eight hours following work cessation (submitted via fax or mail). In the event that the declaration is submitted outside the aforementioned timeframe, the compensation file is rejected. In all cases, the first day of work cessation is not compensated; compensation for this day remains the employer's responsibility. (NFPHUR, without edition, p. 3)

Work resumption is likewise ordered by the employer or one of their representatives at the work site. Additionally, the work resumption file must be submitted upon reopening the work site within a maximum period of fifteen days.

3.2.1.2 Contributions

The contribution rate for the paid leave system is calculated based on the social security contribution base, amounting to 12.21% borne solely by the employer, as stipulated in Executive Decree No. 97/46 dated February 4, 1997. Every worker who has been active for a period of not less than fifteen days with an employing entity or a group of employing entities member to the Fund benefits from these paid leaves. (NFPHUR, without edition, p. 5)

Regarding contributions under the unemployment due to inclement weather system, pursuant to Decree No. 97/46 dated February 4, 1997, which establishes the contribution rate payable to the National Fund for Paid Leave and Unemployment Due to Inclement Weather Conditions for the construction, public works, and irrigation sectors under the heading of paid leave and

unemployment due to inclement weather, the contribution rate for the unemployment due to inclement weather system has been set at 0.75% based on the social security contribution base. This amount is borne equally by the employer and the worker, and is calculated on the basis of the basic wage subject to social security contributions as follows:

- 0.375% borne by the employer;
- 0.375% borne by the worker. (NFPHUR, without edition, p. 5)

3.3 Conditions for Benefiting from Compensation

For a worker and employer to benefit from compensation for unemployment due to inclement weather conditions, the following conditions must be satisfied: working hours, reference year, and the status of the employing entity.

Regarding the working duration condition, the worker's presence at the work site during the period of work cessation is mandatory. Furthermore, the declared worker must have worked for a minimum of two hundred (200) hours during the two months preceding work cessation, and the worker must not engage in any other paid activity.

The reference year extends from January 1 through December 31 of each year. For institutions that pay monthly or quarterly contributions, the reference year extends from July 1 through June 30 of the following year.

Concerning the condition of the employing entity's status, compensation for unemployment due to inclement weather conditions may only be paid if the institution regularly pays its principal contributions for unemployment due to inclement weather conditions for the total leave period preceding the work site cessation.

3.3.1 Value of Compensation

The value of compensation for unemployment due to inclement weather conditions equals 75% of the worker's basic hourly wage. This compensation amounts to three-quarters of the wage subject to tax deduction. This mechanism reflects the legislator's attempt to strike a balance between safeguarding workers' social rights and preserving the financial sustainability of the compensation system. By granting 75% of the basic hourly wage, the legislator ensures a minimum level of income protection for workers who are temporarily unable to perform their duties due to circumstances beyond their control, such as adverse weather conditions. At the same time, the reduction from the full wage to three-quarters serves to maintain the exceptional nature of the compensation and to encourage the resumption of work as soon as normal conditions are restored. Consequently, this form of compensation embodies the social function of labor law, which seeks to protect workers against employment-related risks while maintaining economic equilibrium within the social security framework. (NFPHUR, without edition, p. 8)

3.3.2 Rejection of Compensation for Unemployment Due to Inclement Weather Conditions

Applications for compensation for unemployment due to inclement weather conditions may be subject to definitive rejection in the following cases:

- Submission of the work cessation declaration outside the legal timeframe, i.e., after forty-eight hours from the date of cessation.
- Submission of the work cessation declaration simultaneously with the submission of the work resumption declaration.
- Expiration of the file after four years have elapsed.
- Workers failing to complete two hundred (200) working hours.
- Exceeding a work cessation duration of two hundred (200) hours during the year.
- Work resumption not exceeding fifteen days.
- Submission of a payment statement and nominal list exceeding three months. (NFPHUR, without edition, p. 9)

4. CONCLUSION

The National Fund for Paid Leave and Unemployment Due to Inclement Weather Conditions for the construction, public works, and irrigation sectors represents a significant achievement for the social security system in Algeria, particularly given its recent expansion of the unemployment compensation system to include unemployment arising from extreme heat temperatures (*la canicule*), under which work cannot be performed without compromising the health and safety of workers. The heat threshold has been established at forty-four (44) degrees Celsius. The Fund ensures compensation for work site cessation linked to elevated temperatures in the southern Algerian provinces and has been extended to include the following high plateaus provinces: Batna, Bouira, Bordj Bou Arreridj, Constantine, Khenchela, Médéa, M'Sila, Oum El Bouaghi, Saïda, Sétif, Souk Ahras, Tebessa, Tiaret, and Tissemsilt.

Furthermore, it is pertinent to note that the Fund has also expanded the category of employers subject to membership to include workers in the forestry works sector and the telecommunications sector (both wired and wireless infrastructure enterprises).

Based on the foregoing, this study concludes with the following recommendations:

- Amend Executive Decree No. 97/47 to include extreme heat temperatures as one of the compensable causes of unemployment, with specification of the threshold to render it legally mandatory rather than contractual.
- Review the annual caps on compensable hours. Given meteorological disruptions resulting from global climate change, it is necessary to revise the maximum annual compensable hours by raising them in alignment with practical reality, which leads to work site closures for extended periods.

- Expand the activity sectors covered by insurance against unemployment due to inclement weather conditions to include the largest possible category of workers.
- Activate digital communication between social security funds and labor inspectorates to simplify and accelerate verification procedures for eligibility conditions for compensation.
- Adopt the criterion of partial work site cessation. Activity cessation in certain large work sites may affect a specific category of workers without impacting the activity of the remaining workforce.

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