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Insurance Against the Loss of Animals and Climatic Risks: A Study in Algerian Law

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Abstract:

This study addresses insurance against the loss of animals and climatic risks within the framework of Algerian insurance law. It raises the question of how capable Algerian legal texts are of regulating the fields of insurance in Algeria, particularly in light of the role insurance plays in the economic process in general. In principle, insurance in Algeria remains optional when it concerns the insurance of property as a general rule, while the exception is that it becomes compulsory. The study reached a set of findings, the most important of which is that insurance against the loss of animals and climatic risks in Algeria is guaranteed and is not compulsory as a general rule, except where the legislator has made it mandatory.

Keywords:Risks, Insurance; Accidents; Climate.

INTRODUCTION:

The insurance industry and the development of insurance products have expanded in Algeria. This has led to the emergence of private Algerian companies competing with public Algerian insurance companies, which has intensified competition among insurance companies operating in both the public and private sectors. Accordingly, these companies have been required to seek methods that help them confront competitors in the insurance sector, improve their competitiveness and insurance products, and consequently develop the insurance industry. This can be achieved by fostering cooperation, increasing capital, and activating marketing and competitive capabilities, among other measures. Among the most important fields of insurance is insurance against the loss of animals and climatic risks, especially in light of Algeria's openness to agricultural investment in particular, the growing interconnection of economic relations at the international level, and Algeria's affirmation of freedom of investment, trade, and entrepreneurship, while guaranteeing at least a minimum level of competition¹.

For insurance companies to succeed in marketing their insurance products, they must understand and know consumer behavior and the set of factors influencing it. It is also necessary to recognize that all elements of the marketing mix for insurance products contribute to developing the insurance industry and creating new insurance products². Individuals face many risks affecting their assets and property, and they may encounter circumstances that prevent them from continuing their activities, given their limited capabilities. This makes it necessary for them to seek means and methods that reduce their losses in unstable conditions. Hence emerged the idea of insuring against risks, particularly insurance against the loss of animals and climatic risks, which is the subject of this research paper. The essence of the insurance system, from the outset, is based on the insured's reliance on a common fund or a pooled set of assets established through the contributions of a group of insured persons (by paying insurance premiums), with the right to be supported when risks arise that may affect their activity.

Given the social and economic importance of insurance, the Algerian legislator moved to regulate insurance contracts, considering them an indispensable necessity, especially with the increasing role of insurance for various actors in agriculture—particularly when it concerns animal husbandry and agricultural crops—and the range of risks that may cause problems. Means of production and service delivery vary, and their use entails risks that may arise. The motivation for insurance in this context is to secure a degree of protection.

Accordingly, we raise the issue of the legal controls governing insurance against the loss of animals and climatic risks in Algerian law by addressing, in the first section, insurance against the loss of animals, and in the second section, insurance against climatic risks, in accordance with the following detail:

THE FIRST TOPIC: INSURANCE AGAINST THE LOSS OF ANIMALS

From the outset, this type of insurance falls within the category of property insurance. It includes insurance against the loss of livestock and agricultural crops resulting from any sudden natural change³, epidemics, and even the animal's natural death. Under this insurance, the insurer undertakes to compensate for losses and damages⁴. It refers to insurance in which the insured risk concerns the insured's property, unlike personal insurance, where the insured risk concerns the person of the insured. Here, it is necessary to distinguish between two types of this insurance: first, insurance on things (property insurance in the strict sense), and second, liability insurance⁵. Insurance is considered a promise of compensation that an insurance company usually provides to the insured⁶. This paper addresses the first type.

First Requirement: The Scope of Insurance Against The Loss Of Animals

Natural risks are those risks related to natural factors whose source cannot be controlled, although their effects can be reduced. Natural risks significantly affect agricultural production, whether plant-based or animal-based. These risks can be divided into two main categories: climatic risks and diseases that may affect agricultural production.

Health risks consist of various diseases that threaten the health of plants and animals. These diseases may be ordinary diseases, known infectious diseases, or diseases that the state declares by legal text to be an agricultural disease or an exceptional disease. The "loss" of an animal means its death due to climatic fluctuations or disease.

As for animal husbandry, many diseases can be identified, differing according to the nature and type of livestock production (cattle, poultry, etc.). There may also be a link between climatic factors and animal diseases, as climatic factors can influence epidemics either indirectly or directly, facilitating their spread across neighboring regions. Climatic factors such as excessive rainfall or high temperatures can hinder plant growth, expose crops to erosion and drought, accelerate infection with diseases, and increase the likelihood of parasite attacks. On the other hand, excessive increases in temperature may cause physiological disturbances in animals such as stress, raise their susceptibility to epidemics, and contribute to or accelerate the spread of disease.

Plant production is likewise exposed to various diseases, including fungal rot and other conditions, as occurs with the production of potatoes, tomatoes, and other crops. There are also other diseases that vary by type of production (insect-related, fungal), viral diseases, crustacean-related diseases, and so forth. A further emerging threat for coastal countries—especially Algeria—is locust invasions and the very negative effects they leave on crops.

Insurance is considered the optimal means of protecting property, means of production, and capital, and it serves as a guarantee of protection against all risks that may affect individuals and their assets⁷.

In Algerian law, it is possible to insure against the loss of an animal due to natural death, accidents, or diseases. However, we do not observe an explicit provision on insurance against diseases and damage to agricultural crops in the Algerian insurance law examined here (Order No. 95-07, as amended and supplemented); rather, it appears implicitly. In general, insurance remains optional, as Article 29 of the aforementioned order provides: “Any person who has a direct or indirect interest in preserving property or in preventing the occurrence of a risk may insure it.” Nevertheless, the matter is not the same when it comes to youth projects supported by state agencies for youth support (such as ANSEJ and CNAC), where insurance is compulsory by agreement between these bodies on the one hand and the banks financing the projects on the other.

In addition, Executive Decree No. 04-268⁸, which includes the identification of natural accidents covered by the mandatory insurance for natural disasters and sets out the procedures for declaring a state of natural disaster, referred to the compulsory nature of insurance for floods and mudflows. It also included compulsory insurance for storms and strong winds, based on Article 2 thereof.

The insurance contract aims to compensate the damages suffered by the insured when the insured loss materializes, pursuant to the insurance policy (the insurance contract) concluded between the insurer and the insured. It is clear that the insured represents the weaker party in the insurance contract for several reasons. Some relate to the contract itself, since it is a technical and legal document containing complex clauses that are difficult for the insured to understand. Others relate to the contracting parties, as insurance companies occupy a position of economic and technical strength by virtue of specialization⁹.

Based on the foregoing, the legal foundation for insurance against the loss of animals is clearly established, covering loss caused by disease, death, accidents, and even climatic causes.

Second Requirement: Regulations Governing Insurance Against The Loss Of Animals

Article 49 of Order No. 95-07 (the Algerian Insurance Law), as amended and supplemented, provides: “The insurer guarantees the loss of animals resulting from natural death, accidents, or diseases. The guarantee applies where animals are killed for preventive purposes or to limit damage, if this is done by order of the public authorities or by the insurer.”

Article 50 of the same Order further provides: “Subject to the provisions of Article 622(2) of the Civil Code, in the event of an animal epidemic or contagious diseases, the insured loses the right to compensation unless the insured complies with the laws and regulations relating to animal health, except in cases of force majeure. The decision depriving the insured of the right to compensation is issued by the courts. No animal located in the area may be insured as long as the animal epidemic remains there.”

From these two articles, it is clear that the guarantee covers the animal’s natural death, as well as loss caused by accidents or diseases. The text does not specify the type of accidents, which indicates that it covers accidents generally. The guarantee also applies where animals are killed for preventive purposes pursuant to an order from the public authorities. It is required that the insured notify the insurer within 24 hours from the date of the occurrence of the incident, except in emergency situations or cases of force majeure¹⁰. In addition, the Algerian legislator, based on Article 51 of Order No. 95-07, provides: “Insurance against the loss of an animal that has been suspended due to non-payment of the premium, pursuant to Article 16 of this Order, shall not take effect again except five (5) days after payment of all premiums due. Any incident occurring during the period of suspension, or that may be linked to such suspension, is excluded from the guarantee.”

THE SECOND TOPIC:INSURANCE AGAINST CLIMATIC RISKS

In this section, we address two main ideas: first, the scope of insurance against climatic risks, and second, the regulatory framework governing insurance against climatic risks.

First requirement: The Scope of Insurance Against Climatic Risks

Many people around the world are exposed to climatic fluctuations, whether due to drought, cold, floods, irregular rainfall, excessive sunshine, desertification, storms, and the sirocco¹¹ (hot winds coming from southern Algeria). Insurance based on these risks provides a field that enables victims of such fluctuations to continue obtaining financing and to rebuild their capacities to face risks in the

future, in addition to continuing the implementation of their projects and, in particular, their agricultural activities.

Climatic risks are, in principle, natural risks. These risks include drought and irregular rainfall, high humidity, floods, rising temperatures, storms, sand whirlwinds, random fires, and all natural hazards¹². Insurance against these risks is generally optional, except where an explicit legal text makes it compulsory. This is the case, for example, under Executive Decree No. 04-268, which identifies the natural accidents covered by the mandatory insurance for natural disasters and specifies the procedures for declaring a state of natural disaster, as mentioned above. The Algerian legislator has singled out floods, mudflows, storms, and strong winds for compulsory insurance against these risks. Other risks, such as cold, desertification, and fire, remain risks for which the owner of property is not legally compelled to obtain insurance.

Second requirement: Regulations Governing Insurance Against Climatic Risks

Article 52 of Order No. 95-07 (the Algerian Insurance Law), as amended and supplemented, provides: “Subject to the legislative and regulatory provisions in force concerning agricultural pests and natural disasters, the risks of hail, storm, frost, the weight of snow, and floods may be covered under the conditions set out in the insurance contract. The conditions and procedures for covering these risks shall be determined by regulation.” From the wording of this article, it is clear that coverage for these risks depends on the terms agreed by the contracting parties, and that the contract is binding upon them; the matter is therefore, in principle, optional. However, Executive Decree No. 04-268, which identifies the natural accidents covered by the mandatory insurance for natural disasters and specifies the procedures for declaring a state of natural disaster, has made insurance compulsory for certain climatic risks.

Article 53 of Order No. 95-07 (the Algerian Insurance Law), as amended and supplemented, states: “In the field of hail insurance, the insurer guarantees damage resulting from the mechanical impact of hailstones on movable and/or immovable property. If the subject of the insurance is unstored crops, the guarantee applies to losses in quantity, and loss in quality may be included by an express agreement in return for an additional premium.”

Article 54 of the same Order provides: “The insurance remains in effect, in the event of a transfer of ownership of real property or revenues, under the same conditions set out in Article 24 above; however, the insurer may terminate the

contract and notify the buyer accordingly. In such a case, termination takes effect upon the expiry of the current insurance period.”

Article 24 of the same Order also provides: “If ownership of the insured item is transferred as a result of death or a disposition, the insurance remains effective for the benefit of the heir or the buyer, provided that all obligations set out in the contract are fulfilled. The transferor, the heir, or the buyer must declare the transfer of ownership to the insurer. In the event of a disposition of the insured property, the transferor remains obliged to pay the premiums due unless the insurer is informed thereof; however, once the insurer is informed of the disposition, the transferor remains obliged only to pay the premium relating to the period prior to the declaration. If there are multiple heirs or buyers, they must pay the premiums jointly and severally.”

CONCLUSION

Investment in agriculture, even when it is aimed at subsistence farming in Algeria’s rural areas, is among the most important forms of investment that drive the national economy. It is considered a cornerstone and a central axis of the development process, particularly at the level of individuals and local communities, and it promotes social and economic stability for its owners, at least in a direct sense. In reality, it is grounded in sustainable development, especially in light of the current conditions experienced by the Algerian state. However, the issue of avoiding losses suffered by the agricultural sector—both livestock and crop farming—has placed a heavy burden on breeders and farmers, leading many of them to halt their projects or refrain from engaging in related agricultural activities. For this reason, insurance against the risks of animal loss and weather fluctuations and their associated hazards plays a foundational role as established by the Algerian legislator.

The establishment of this type of insurance also strengthens the capacities of emerging enterprises and youth investments by helping to create local jobs and combat unemployment. Through insurance, the legal and economic processes become integrated within a strategic framework based on scientific plans that can reinforce the Algerian national economy. If insurance accompanies the agricultural sector in general, it preserves the effectiveness of investments in the sector for their owners, thereby benefiting them and the Algerian economy. This paper reaches the following results:

- Insurance in Algeria has a legal foundation.
- Insurance is, in principle, optional, but the legislator has made certain types of risks subject to compulsory insurance.

- Multiple choices are ensured for consumers of insurance services in Algeria by opening the insurance activity to private operators and foreign investment.
- The risk of animal loss or the risk of weather fluctuations constitutes the essential element in the insurance contract.
- Algerian law requires compulsory insurance for floods, mudflows, storms, and strong winds.
- Insurance remains in effect, in the event of a transfer of ownership of real property or revenues, under the same conditions. The transferor remains obliged to pay the premiums due unless the insurer is informed; however, once the insurer is notified of the transfer, the transferor remains obliged only to pay the premium relating to the period prior to the declaration. If there are multiple heirs or buyers, they must pay the premiums jointly and severally.

Recommendations

Since insurance is based on insurance culture—understood as people’s awareness of the importance of insurance in their daily lives—we call on Algerian insurance companies, both private and public, as well as foreign branches, to draw closer to consumers of insurance services and to organize insurance open days in order to strengthen this culture.

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