

Agricultural Production Insurance under Algerian Law التأمين على الإنتاج الزراعي في القانون الجزائري

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Abstract

Agricultural production insurance plays an important role in agricultural development; since it ensures that farmers are protected against the agricultural risks to which their production may be exposed, by compensating for the losses resulting from such risks to their agricultural investments. This provides farmers with a sense of security and peace of mind regarding the stability of their income, which encourages them to continue their farming activities. Consequently, production increases, which leads to the growth and development of the agricultural sector, thereby ensuring food security.

Keywords: insurance, agricultural production, agricultural production insurance, agricultural risks, food security.

الملخص

يؤدي التأمين على الإنتاج الزراعي دورا مهما في التنمية الفلاحية؛ كونه يكفل للفلاحين تغطية المخاطر الفلاحية التي قد يتعرض لها إنتاجهم الزراعي، وذلك عن طريق تعويض الخسائر التي تترتب عن تلك المخاطر التي يتعرضون لها في استثماراتهم الفلاحية، وهذا من شأنه أن يعطي للفلاحين نوع من الطمأنينة والراحة لاستقرار مداخيلهم التي تحفزهم على الاستمرار في القيام بنشاطهم الفلاحي، مما يؤدي إلى زيادة الإنتاج وبالتالي نمو وتطور القطاع الفلاحي الذي من شأنه يضمن تحقيق الأمن الغذائي، ومن هذا المنطلق سيتم البحث في هذه الدراسة على الأحكام القانونية التي أوجدها المشرع الجزائري في مجال التأمين على الإنتاج الزراعي وذلك في إطار المجهودات المبذولة للنهوض بالقطاع الفلاحي وتحقيق الأهداف المسطرة في ذلك.

الكلمات المفتاحية: التأمين- الإنتاج الزراعي- التأمين على الإنتاج الزراعي - المخاطر الفلاحية-الأمن

الغذائي.

Introduction

Agricultural activity is a fundamental pillar for the economic and social development of any country, as it is a source of food wealth and the only means of achieving food security¹. Agriculture no longer produces crops solely for direct consumption; rather, they are processed and manufactured for sale in markets. Indeed, agriculture was one of the most important trades that helped humanity to make use of its surroundings to earn a living, and all peoples practiced it before turning to industry. No people can survive without agriculture, despite the comfort and conveniences offered by industry, as the import of food and raw materials is neither guaranteed nor always feasible, and it leads to food dependency and risks. Based on the foregoing, we assume that the agricultural sector plays a major role in driving development and progress in all aspects of life.

However, agricultural activity is affected by factors and phenomena beyond the farmer's control, such as biological factors and climatic conditions, which influence crop yields. Agricultural products are exposed during production to natural factors such as cold, heat, snow, and biological factors such as pests, insects and diseases, which expose them to many risks. This has a negative impact on the product and on the farmer's profit, which in turn leads to farmers and investors being reluctant to continue working in the agricultural sector.

Agricultural activity in Algeria has undergone several phases of a Agricultural development through the reforms it has witnessed and the various legal regulations issued on this sector; as self-management, the organization of agricultural investments, and the granting of concession contracts to agricultural investors, alongside numerous incentives provided to farmers. However, despite all these reforms, agricultural activity in Algeria has not met the targets, due to the many risks that hinder farmers' activities, which necessitates finding solutions to these risks facing agricultural activity. Among the solutions adopted is the conclusion of insurance contracts covering their agricultural activities, where in livestock farming or crop farming, in order to obtain compensation for the incurred losses.

Agricultural insurance plays an effective role in the development of the agricultural sector by providing financial compensation to farmers, helping them to mitigate losses partially or entirely; resulting from the risk to which they may be conditions and the seasonal nature of agricultural products. Consequently, agricultural insurance helps to ensure the renewal of farmers' investment capacity, leading to the stability of agricultural activity in general, then, its growth and development.

Consequently, the study of agricultural production insurance under Algerian law has great importance, regarding the status of the agricultural sector itself as an alternative development sector that generates wealth within the strategy adopted by the Algerian authorities to achieve economic diversification and food security. These later can only be achieved through the stability of agricultural activity that requires the stability of farmers and their continued agricultural investments.

Bases on the above, we ask the following question: To what extent does agricultural insurance contribute to covering the risks affecting agricultural production in order to achieve agricultural development?

To answer this question, we rely on the descriptive analytical approach, as this is the most appropriate methods for such legal studies. The study is divided into four sections, addressing first the concept of agricultural production insurance, secondly the types of risks facing agricultural production, thirdly, agricultural crop insurance contracts, and finally, compensation procedures for risks affecting agricultural production.

Section I: The Concept of Agricultural Production Insurance

For clearly define concept of agricultural production insurance, it is necessary to first clarify its definition and then its importance, as follows:

A-Definition of Agricultural Production Insurance

Agricultural insurance is used by farmers to minimize, first, losses resulting from agricultural crops being exposed to the risks they face during their farming activities, secondly, to ensure the supply of various agricultural crops intended meet the needs of society, thereby achieving food security.

Legislators have defined, in general terms, insurance in Article 619 of the Civil Code. insurance is “a contract whereby the insurer undertakes to pay a sum of money, an income or any other financial compensation, in the event of the occurrence of the accident or the materialization of the risk specified in the contract, to the insured or to the beneficiary (in whose favour the insurance is taken out), in return for a premium or any other financial payment made by the insured to the insurer”².

From the foregoing, we can define agricultural insurance as an insurance taken out by the farmer (the insured) by entering into a contract with an insurance company (the insurer). Whereby the latter undertakes to pay the farmer a sum of money, income or any other financial compensation in the event of an accident or the occurrence of the risk specified in the contract, in return for a premium or any other payment paid by the insured to the insurer.

B-Importance of Agricultural Production Insurance

The importance of agricultural production insurance lies in the social and economic benefits and services it provides to farmers and to the state, the most significant of which are:

1. Providing security, peace of mind and reassurance to farmers by alleviating their anxiety and fear regarding their farming activities and the expenses and burdens they incur. Since, Insurance provides a guarantee of compensation for losses resulting from the occurrence of risks to which their crop production may be exposed³, this encourages them to continue investing in agriculture, provided there is insurance cover guaranteeing compensation for any losses they may incur⁴.
2. Insurance for agricultural production is a means of preventing and reducing the losses resulting from the risks to which farmers are exposed during their farming activities. This is achieved through the compensation they receive, as well as through the guidance, advice and awareness-raising provided by insurance providers to farmers on how to deal with risks they may face whilst carrying out their activities⁵.
3. Compensating farmers for the damage and losses suffered by agricultural production helps to ensure the continuity of farming projects and thus preserves the jobs of those working in them. It also ensures the continued supply of various goods to consumers, thereby guaranteeing social and economic stability for individuals and the state.
4. Insurance allow farmers to restore their financial position to what it was prior to the loss in agricultural production caused by insured risks. This enables farmers to maintain the same standard of living without having to seek assistance from others⁶.
5. Some insurance providers undertake to provide feasibility studies for those wishing to invest in a specific agricultural project, and to insure that project; this increases the prospect of implementing economically viable agricultural projects rather than venturing into projects with unpredictable outcomes.
6. Agricultural production insurance helps to generate and grow capital by collecting funds from insured farmers and investing them in other investment areas⁷.
7. Agricultural production insurance provides farmers with the security they need to secure the necessary funding for their farming activities⁸.
8. Agricultural production insurance supports the national economy by promoting the quantitative and qualitative development of the

agricultural sector, as it provides a safeguard against the risks that farming activities may face.

9. Agricultural production insurance helps alleviate the burden on the state of covering losses that farmers may incur due to their farming activities being exposed to various risks⁹.

Section II: Types of Risks Facing Agricultural Production

The risks facing agricultural crops and production vary according to their causes; there are natural risks, economic risks, institutional risks and social risks.

A-Natural Risks

These are caused by natural factors, particularly climatic ones, such as droughts, floods, high temperatures, frost, freezing, hail, hurricanes and storms¹⁰. Cold and frost are among the most significant risks to crop production, as ice has a major impact on the cultivation of vines and fruit trees, potentially destroying the harvest. As for cold, it causes damage to all types of crops, particularly cereals and fruit trees. However, climatic risks vary according to production periods and seasons, as well as the type of agricultural region, which leads to differences in the effects caused by risks.

Natural hazards also include agricultural diseases caused by either bacteria and viruses, climatic factors, or poor soil quality and degradation. agricultural diseases can also be the result of the impact of certain insects such as locust swarms, which have a negative impact on plant production, particularly agricultural crops¹¹, as plant production is susceptible to various diseases, including fungal rot or grape fungus, which often affects potato production, in addition to other diseases that vary depending on the crop.

B-Economic Risks

Farmers are exposed to this type of risk because of fluctuations in the prices of agricultural products, as well as changes in the prices of production inputs and the amount of capital invested. Price volatility and instability are considered as recurrent and persistent problems in farming; farmers find themselves threatened by the risk of rising prices when purchasing inputs and falling prices when selling their products. Consequently, the selling price farmers may receive differs from what they expected, which affects farmers' ability and is likely to have a negative impact on the volume of production¹².

Furthermore, agricultural technics and technologies enhancement in farming are among the economic risks faced by farmers; since the rapid and continuous development of agricultural technics and technologies, farmers' tools and methods become quickly outdated and obsolete within a relatively

short period of time. This is known as the risk of obsolescence in production machinery and equipment¹³.

C-Institutional Risks

Theses arise because of the policies or laws regulating agriculture. This type of risks manifest in restrictions related to production, health and environment, which farmers cannot predict or foresee in advance such as restrictions on the use of certain pesticides. Institutional risks have become a major concern for farmers due to their continuous increase as a result of various policies in line with the development of environment and health standards in recent years. The imposition of new environment standards limits the production techniques that can be used and necessitates investments that may be costly, whilst non-compliance may result in substantial fines, which in turn negatively affects farmers' incomes¹⁴

Section III: Agricultural Production Insurance Contracts

Agricultural production is highly vulnerable to climatic risks such as cold weather, storms, ice, snow and floods. In this context, Article 52 of Decree No.95-07 on insurance stipulates that risks such as cold, storms, ice, snow and floods may be insured in accordance with the conditions set out in the insurance contract¹⁵. Furthermore, pursuant to the provisions of Article 69 of Law No.08-16, which includes the Agricultural Guidance Act, agricultural investors must take out insurance policies for all agricultural activities that benefit from support or assistance measures provided by the state, regardless of their form or nature.

However, insurance, against natural disasters affecting agricultural production, is not compulsory, but optional for farmers, as it is excluded under Article 10 of Decree No.03-12, concerning compulsory insurance against natural disasters and compensation for victims. The Decree stipulates that: "Damage to unstored agricultural crops, plantations, land and livestock outside buildings subject to special provisions shall be excluded from the scope of application of Articles 1 to 6"¹⁶.

Insurance policies covering agricultural crops against climatic risks include:

A-Hail Insurance

The insurance contract covers damage caused by hail to crops such as cereals, straw, pulses, fodder, vegetables, industrial crops, flowers and fruit trees. The insurance contract also covers losses caused by hail to greenhouses (plastic and crops)¹⁷. In this context, Article 53 of Decree No.95-07 on insurance stipulates: "in the field of hail insurance, the insurer covers damage caused by the mechanical impact of hailstones on movable and/or immovable

property. If the subject of the insurance is unstored crops, the cover applies to losses in quantity; losses in quality may be included in the policy by express agreement in return for an additional premium”.

Article 2 of Executive Decree No.95-416, which sets out the conditions and procedures for agricultural risk cover, also stipulates that cover for the risks of hail, storm, ice, snow load and floods may be extended to the existing main policy or provided under a separate contract¹⁸.

B-Storms Insurance

The insurance contract covers damage or loss caused by strong winds leading to partial or total destruction of crops, as well as fruits trees, palm trees, vines, industrial crops and greenhouses (plastic and crops) and nurseries.

C-Flood Insurance

The insurance contract covers damage or loss caused by torrential flooding, leaks in underground channels or drainage channels or flooding from seawater, rivers, springs, ponds and lakes¹⁹.

D-Ice Insurance

The insurance contract covers quantitative losses to crop production resulting from a change in the density of a natural factor caused by ice falling on parts of plants, such as cereals, potatoes and pulses, as well as fruit trees and nurseries.

E-Snow Insurance

The insurance contract covers quantitative losses in crop production caused by the accumulation of snow on crops, which leads to damage to crops.

F-Sirocco Insurance

The insurance contract covers quantitative losses in crop production caused by hot, dry winds affecting plants and fruit trees.

G-Rain Insurance

The insurance contract covers quantitative losses in crop production caused by heavy rainfall, which leads damage to crops.

H-Sun Insurance

The insurance contract covers quantitative losses in crop production caused by the adverse effects of sunlight on plant parts and on the leaves of fruit trees and vine, leading to their scorching and damage to crops²⁰.

Worth noting that, referring to Article 7 of Decree No.95-07 on insurance, the insurance contract must be drawn up in writing, in clear handwriting. The insurance contract must also bear: - the signatures of both contracting parties- mandatorily the name and address of each of the contracting parties-the insured object or person- the nature of the insured risks-the date of subscription-the date of commencement and duration of the contract- the sum insured and the amount of the premium or insurance contribution.

Section IV: Compensation Procedures for Agricultural Production Risks

A farmer who has taken out an insurance policy must, in the event of damage to agricultural crops, carry out a series of procedures in order to receive appropriate compensation for the damage caused to their agricultural products. These procedures consist of reporting the incident, conducting an assessment and determining the compensation.

A-Reporting the Incident

Pursuant to the provisions of Article 15 of Decree No.95-07 on insurance, one of the obligations incumbent upon the insured party in order to receive compensation for the losses, is to submit a report to the insurer regarding any incident covered by the policy as soon as it comes to their attention. Reporting must be submitted within the specified time limits, which shall not exceed seven (7) days, with the exception of frost insurance, for which the deadline for reporting the incident is four (4) days from the date of the incident. In all cases, time limits do not apply in the event of an emergency of force majeure, in which case the insured must provide the insurer with all accurate details relating to the incident and its extent, as well as all necessary documents requested by the insurer.

B-The Expertise:

The insurer must appoint an expert immediately upon receiving notification of an insured incident that has caused damage to the insured, within a maximum time limit of seven (7) days. If the insurer fails to appoint an expert within the time limit, the insured may appoint an expert of their choice from the list of approved experts²¹.

The appointed expert shall, through the inspection carried out, investigate the causes of the incident, and establish that it has physically occurred. The expert shall determine the nature and extent of the damage, with the aim of ascertaining whether the damage in question is covered by the insurance or not.

As well as, the expert shall assess and evaluate the damage and record all information obtained during the inspection in report. The expert must carry out all these tasks with due care, in accordance with professional standards and customs, and in strict confidence²².

C-Assessment of compensation

Following the submission of the expert's report, the insurance company shall calculate the compensation based on the cover provided for in the contract. Whereby, compensation for risks covered by the insurance contract shall be assessed on the basis of total or partial loss. In cases of total loss, the compensation covers the entire loss, provided that it does not exceed the sum insured stipulated in the contract. As for partial loss, a distinction must be made between it is minor damage or serious. In case of minor damage, it is assessed based on the cost of repairing, provided that the costs do not exceed the value of the item itself. As for serious damage, it is treated as total loss, and the value of the item is taken into account²³.

In all cases the compensation paid by the insure to the insured may not exceed the actual loss²⁴. Compensation should be paid within the time limits specified in the general terms and conditions of the insurance contract. If not, the insured is entitled to claim the compensation plus interest for each day delay at the discount rate²⁵.

Conclusion

The agricultural sector is considered as one of the most important economic sectors in any country because of its role in society; however, it is exposed to numerous risks due to its link to climatic and environmental changes and therefore requires insurance. Among the findings of this study, we note:

- Agricultural production insurance plays a vital role in driving social development by providing security and stability in farmers' lives, as well as giving them confidence and peace of mind regarding the risks they may face during their farming activities, which they carry out under an insurance cover that guarantees compensation for losses.
- Agricultural production insurance plays also a role in economic development by ensuring the availability of various crops and fruits in the required quantity and quality, which helps to stabilize the prices of these commodities and prevent their rising costs, thereby having a significant impact on achieving a certain level of food self- sufficiency. In addition, Agricultural production insurance establishes a foundation for manufacturing by providing the agricultural raw materials required by industries, such as the food industry, which has a significant impact on driving economic development in all dimensions.

Based on the findings, we put forward the following:

- Working on a map that identifies the most vulnerable areas to natural hazards and disasters, and addressing the specific characteristics of each area with appropriate insurance schemes.
- Promoting a culture of agricultural crop insurance among farmers by organising awareness campaigns to highlight the security of agricultural risks to crops in the absence of insurance.
- Enabling the establishment of a structured and sustainable agricultural insurance system that comply with the principles of Islamic Sharia.

¹ Food security is defined as the ability of every person to easily and regularly access adequate and sound food allowing them to enjoy an active life. See Article 3 of Law No. 08-16 comprising the Agricultural Guidance Law.

² . Decree No. 75-58 comprising the Civil Code, as amended by Order No. 07-05 dated 13 May 2007

³ Kamal Mahmoud Jabra, Insurance and Risk Management, op. cit., p. 13.

⁴ Ali Jadou' al-Shrafat, Agricultural Insurance, op. cit., p. 25.

⁵ Ali Jadou' al-Shrafat, op. cit., p. 25.

⁶ Kamal Mahmoud Jabra, op. cit., p. 13.

⁷ Ali Jadou' al-Shrafat, op. cit., p. 25.

⁸ Ousama Amer, "The Role of Insurance in Supporting Agricultural Development," op. cit., p. 9.

⁹ Ali Jadou' al-Shrafat, op. cit., p. 25.

¹⁰ Ali Jadou' al-Shrafat, op. cit., p. 40.

¹¹ Ibid.

¹² Fatima al-Zahra Tahiri, "The Role of Insurance in Managing Agricultural Risks," op. cit., p. 372.

¹³ Ali Jadou' al-Shrafat, op. cit., p. 40.

¹⁴ Fatima al-Zahra Tahiri, op. cit., pp. 372-373.

¹⁵ Decree No. 95-07 relating to insurance, as amended by Law No. 06-04 dated 20 February 2006

¹⁶ Decree No. 03-12 relating to compulsory insurance against natural disasters.

¹⁷ Fatima al-Zahra Tahiri, op. cit., p. 380.

¹⁸ Executive Decree No. 95-416 determining the conditions and modalities of coverage for agricultural risks.

¹⁹ Zuhair 'Amari and Usama Amer, op. cit., p. 5.

²⁰ Fatima al-Zahra Tahiri, op. cit., p. 380.

²¹ Article 6 of Executive Decree No. 95-416.

²² Articles 5, 8, 9, and 10 of Executive Decree No. 07-220.

²³ Arjilos Rahab, op. cit., pp. 244-245.

²⁴ Article 7 of Executive Decree No. 95-416.

²⁵ Article 14 of Order No. 95-07 relating to insurance.