

THE AGRICULTURAL INSURANCE AS A MECHANISM TO PROTECT THE AGRICULTURAL INVESTOR

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Abstract:

The vitality of the agricultural sector and its prominent role in achieving the food security and socioeconomic stability pushed the Algerian legislator to pay more attention to it through legal texts. The agricultural land is one of the main pillars of the agricultural sector, and needs a permanent protection, as it faces increasing risks. Therefore, the Algerian legislator issued mechanisms, such as the agricultural insurance, to protect it.

Keywords: insurance, agricultural investor, underwriting, agricultural activity.

INTRODUCTION:

Land planting is one of the old activities to get food. In this regard, the agricultural land is an infinite source of wealth, as it serves the social and economic sectors. Therefore, the landowner must invest it; otherwise, he would be abusive against it. The agricultural field is one of the most threatened. Therefore, it is necessary to find methods to face the threats and reduce their negative effects. In so doing, the agricultural insurance emerges as the cornerstone of agricultural development and economic life in general, and as a source of stability and reassurance for the agricultural investor; what increases its importance day after day¹.

The Algerian legislator aims at protecting the agricultural lands and integrates the agricultural investor in the process, as he is the key member in the productive process. Therefore, the investor was granted many rights and privileges, and the legislator imposed agricultural insurance contracts. Based on what was said, we raise the following problematic, “how does the protection of the agricultural investor manifest after imposing insurance contracts on him?” To answer this question, we used the descriptive, analytical, and historical methods and divided the study into two axes; the 1st is about the nature of the agricultural insurance while the 2nd is about the scope of the agricultural insurance.

AXIS ONE: THE NATURE OF THE AGRICULTURAL INSURANCE:

It is one of the insurances used in many fields against different risks to seek security, mainly that the agricultural field is subject to many risks. Thus, this axis shall define the agricultural insurance, tackle its genesis, and discuss its importance.

First: The definition of the agricultural insurance:

It is the set of insurances that cover the agricultural activity, the animalistic wealth, and the related activities². The legal texts on the agricultural activity did not define the agricultural insurance. However, the Insurances Law³ defined the insurance in general. In this regard, Article 2/1 provided that according to Article 619 of the Civil Law⁴, the insurance is a contract by which the insurer is obliged to pay a sum of money, a return, or any other financial payment to the insured in case the risk mentioned in the contract takes place, in return for premiums or other financial payments. In addition, Article 60 adds that insurance on people is a reserve contract between two parties, by which the insurer pays a specific amount in the form of a capital to the insured or benefiter in case the incident takes place or the deadline mentioned in the contract arrives; the insured is obliged to pay premiums according to a schedule agreed upon.

The agricultural insurance is the main tool to reduce the economic effects of the disasters and risks that threaten the agricultural production because it is the process of distributing the risks in a way that can be afforded by many people and parties in return for premiums paid by the parties that underwrote the



insurance system, instead of a small number of people⁵. Therefore, it is a pot to absorb the shocks the farmers face in agriculture or ranching after disasters. It is a security net when risks occur⁶, as it protects the agricultural producers from the potential uncontrolled risks regarding the agricultural and animalistic production through compensations in return for premiums; the compensation is based on the contract between the two parties⁷.

We can say that the agricultural insurance is an agreement between the agricultural investor and the insurance company, in which the 1st pays premiums while the 2nd commits to paying a compensation amount in case the insured risk takes place⁸. It is based on a set of elements, namely:

- The insurer is the insurance company that covers the insured risk.
- Paying the insurance amount to the insured or the benefiter, such as the National Fund of Agricultural Cooperation.
- The insured is the farmer or agricultural investor in general.
- The premium is the amount paid by the agricultural investor (the insured) to the insurance company to get insurance.
- The insurance amount is the money paid by the insurer to the insured when the insured risk takes place.
- The insurance subject is the thing covered by the contract, i.e., the items of the agricultural company in the legal terms⁹.

Second: The genesis of the agricultural insurance:

Historically speaking, the currently known insurance system is recent because despite the notion of insurance had so long emerged, it did not develop to establish the current insurance system¹⁰. In fact, insurance is one of the traits of the modern era. However, the notion had, according to historians, emerged in the Medieval Ages to cover the maritime risks due to the Crusaders that unexpectedly threatened the commercial exchange. The maritime insurance was limited to mere individual initiatives. Then, in the 13th and 14th centuries, the maritime activity expanded and so did the insurance. In this regard, the 17th century was the starting point of land insurance, mainly against fires¹¹. Then in the mid-19th century, the 1st landmarks of the current insurance system appeared, and covered the maritime, fire, life, and job insurances¹².

As for the agricultural insurance, some attribute its notion to the French Benjamin Franklin when one of the French farmers was harmed by natural disasters in 1788 and made Franklin think about the insurance of the costs of the agricultural crops to face the disasters. This was followed by the 1st agricultural insurance in USA and Europe through commercial and cooperative companies¹³.

In Algeria, the insurance, in general, including the agricultural went through different phases, starting from the French laws during the colonial period until 1963 when the 1st Algerian law regarding the insurances was issued and imposed on the foreign companies obligations and guarantees controlled by the law. Consequently, these companies suspended their activities, leaving the arena for the Algerian Company for Insurance, the Algerian Mutual Insurance for Education and Culture Workers, and the Central Fund for the Agricultural Reinsurance. Then, the state gained control over, nationalized, and monopolized all the insurance companies in 1966.

During this period, many legal texts about the insurance were issued to show the insurance provisions, such as the civil and commercial laws, the law of compulsory insurance of cars, and Law 80-07 on the insurances¹⁴. Then, with the issuance of law 95-07, the insurance witnessed a new era that marked the end of the state monopoly on the insurance¹⁵. In this regard, we can say that the agricultural insurance went along with all the phases the general insurance went through and witnessed a big development under the economic reforms in general, and the agricultural in particular, mainly from 2000 to 2003 thanks to the plans of the National Scheme for the Agricultural and Rural Development that are funded by the National Fund for the Agricultural Cooperation and the Agricultural Bank for the Rural Development. In this context, the agricultural insurance was integrated as a main condition to get funding for the agricultural investments. However, it witnessed a continuous decrease¹⁶ despite the state interest and big importance in the economic



activity, as it plays a vital role in the achievement of the good functioning of the agriculture¹⁷, which can be the alternative source for oil.

Third: The importance of the agricultural insurance:

The importance of the agricultural insurance manifests in the social, psychological, and economic sides, as follows:

1. Collaboration and participation:

The insurance is based on collaboration and participation, as it covers a group of people threatened by a given risk. These people participate in settling the effects of the risk through premiums to form the coverage or adjustment balance¹⁸. In this context, the insurance is a form of collaboration between a group of people to collect money to be used in covering the losses that may affect someone due to a given risk they had agreed to face¹⁹, mainly the agricultural risk that harms the farmers' crops and properties²⁰.

The agricultural insurance divides the damages that may affect a small group of people on all the farmers participating in the insurance process, whose number is generally big. In addition, it transfers the risk from the insured to the insurance companies, which can afford the resulting damages²¹, fosters collaboration and brotherhood²², and incarnates the importance of participation and collaboration.

2. Security and stability:

The insurance creates stability and reassurance for the insured, because the risks are increasing in this era, leading to more fears and instability. In this regard, the insurance cannot stop the risks, but can face their damages, end anxiety and reluctance²³, and increase the ability to work. It is the best tool for the psychological security and stability thanks to the protection it provides and the decrease of the severity of the agricultural damages. Besides, it saves the capitals and facilitates rebuilding the agricultural investments after the incidents. It helps achieve balance between the supply and demand in the economic life, as it protects the agricultural production and producers from the potential damages resulting from the natural disasters²⁴ and climatic changes. Consequently, it positively affects the production and develops the agricultural sector²⁵.

3. The achievement of the agricultural development:

The agricultural insurance highly contributes to the agricultural development, as it is one of the main sources to fund the agricultural activities²⁶ and save money in the form of premiums paid in the insurance; this money is used and invested²⁷. Moreover, the insurance companies give loans to the developmental projects that face deficits in the necessary capitals for investment and production development. Furthermore, the insured can get a refund after the incident takes place thanks to the insurance²⁸. Thus, it is one of the methods that reduce the state burdens in disasters, save the farmer's dignity, avoid the farmer the donations and aids²⁹, attract funds, and provide socioeconomic and political stability and food security³⁰. Therefore, we must consider the agricultural insurance as a cornerstone in any developmental strategy in the developing states, mainly those that have huge potentials³¹ like Algeria.

AXIS TWO: THE SCOPE OF THE AGRICULTURAL INSURANCE:

We showed the high importance of agricultural insurance in uplifting the agricultural sector and achieving the food security and the development of the rest of the sector. The agricultural insurance covers many contracts and is made by many entities. We shall tackle the legal basis of issuing the insurance contract.

First: The investor commitment to underwrite an agricultural insurance contract:

The main current laws that regulate the agricultural sector in Algeria, such as the Estate Orientation Law³², the Law on the Exploitation of the State Agricultural Lands³³, and its Executive Decree³⁴, show no obligation for the agricultural investor to underwrite agricultural insurance contracts. However, the obligation is provided for by Law 08-16 on the Agricultural Orientation³⁵, whose Article 69 explicitly provided



that the agricultural investors who benefit from the state support and aids regardless their shape and method must underwrite insurance contracts.

In this regard, this legal rule is binding and cannot be violated. Since the Agricultural Orientation Law covers the state and private lands, the binding law covers all the agricultural investors, who are defined in Article 45 of the Agricultural Orientation Law as any moral or natural person who exercises an agricultural activity in the agricultural lands, participates in the management of the investment, gets returns, and affords the losses. Besides, the Article defines the activities with an agricultural nature as those regarding the control and exploitation of the animalistic or vegetal biological cycle, and all the activities regarding the production, storing, packaging, transformation, and marketing of the vegetal or animalistic products that come from the land.

Article 69 was mentioned in the 3rd chapter of the Agricultural Orientation Law, under the title “protecting the agricultural investors”. Thus, we understand the obligation of making insurance contracts by the agricultural investors because this activity is subject to different risks. Despite the contracts are compulsory for agricultural investors who take advantage of the state aids, those who do not get the state support are not exempted of insurance contracts. The agricultural activity needs huge sums of money, which the farmer cannot provide alone, pushing him to seek agricultural funding³⁶ from the state, in accordance with Articles 84, 85, and 86 of the Agricultural Orientation Law.

Second: The agriculture insurance contracts:

The agricultural insurance contracts differ according to the risks that face the agricultural activity. The main legal texts did not identify the types of agricultural insurance, but mentioned some, as in Law 95-07 on the insurances whose section 03 from chapter 02 entitled “insuring the damages” provided for the insurance against the animals deaths and the climatic risks. In addition, the Executive Decree 95-338³⁷ did not mention all the agricultural insurances³⁸; therefore, we shall mention the most important ones:

1. The insurance against the climatic risks:

Article 52 of the Insurances Law provides that in accordance with the applicable law on the agricultural and natural disasters, it is possible to guarantee the risks of cold, storm, ice, snow, and floods based the conditions of the contract that show the methods and conditions of insuring the risks through the regulation. In this context, the Executive Decree 95-416 was issued to apply this Article³⁹. Its 04th Article confirmed that the insurance covers the risks that affect the buildings, structures, equipments, tools, glass, foods, and the plants. Regarding the methods of the insurance coverage of the risks, they generally take place using many documents that cover the production losses that affect the crops mentioned in the contract⁴⁰. In this regard, Algeria had witnessed many climatic changes that affected the vegetal and animalistic wealth.

2. The insurance against the death of animals:

The animals play an important role in the human life for food, clothing, and transportation. In addition, they used to help plow and fertilize the lands. This type of insurance is one of the very old insurances in many states. It covers the loss of animals due to natural deaths, diseases, or accidents. In addition, the insurance covers the cases of killing animals for prevention based on the state or the insurer order⁴¹. In case of infectious diseases or epidemics, the insured loses his right to compensation if he does not comply with the laws of animals health, save under force majeure. The decision of losing the right to compensation is issued by the justice, in accordance with Article 50 of the Insurance Law, taking into account the provisions of Article 622/1 of the Civil Law⁴².

3. Insurance of the agricultural equipments:

The agricultural equipments include the main tools used by the farmer in his agricultural activity and production. These equipments have a big effect on the final crop, and save time and effort. Therefore, the farmer tries hard to protect them. In this context, the agricultural insurance aims at reassuring⁴³ the farmer about his equipments and covers all the agricultural vehicles from fires, theft, road accidents, and the civil



liability⁴⁴. Some risks are compulsory while others are not. This type of insurance is subject to the provisions of cars insurance because most of the equipments are land vehicles, like tractors and harvesting machine⁴⁵. In addition, we can consider the agricultural equipments as surface properties of the agricultural investment according to Article 4/2 of law 10-03. The “surface properties” in this law refers to the properties in the agricultural land, including the buildings, trees, and irrigation facilities. We must point that the agricultural insurance contracts cover even the social insurances such as deficit and diseases.

Third: The agricultural insurance entities:

Many entities and institutions cover the agricultural activities and provide many insurance offers in the agricultural sector. In the following lines, we shall discuss the main entities that operate in the agricultural sector.

1. The National Fund of the Agricultural Mutual:

It is made up of the Union of the Regional Funds of the Agricultural Mutual⁴⁶. Article 67 of the Agricultural Orientation Law defines the agricultural mutual as a professional entity that particularly aims at achieving all the insurance, reinsurance, loans, and compensation based on solidarity for the benefit of the adherents. Its task includes focusing on success of the programs according to three dimensions, namely its being a lending, economic insurance, and public funds accountant entity⁴⁷. The funds of the agricultural mutual are civil non-profitable companies established by an official contract, in accordance with Article 68 of the Agricultural Orientation Law.

In addition to insurance and reinsurance, the agricultural mutual funds and supports the development activities, updates the agricultural sector in the light of executing the programs, directs the state contributions, and encourages the productive investments and the benefits given to the activities of expanding the agricultural surfaces and intensifying the agricultural products. Despite that the mutual funding is an important mechanism, its efficiency is limited⁴⁸.

2. The Fund of Insurance against the Agricultural Disasters:

It was established by the Finance Law of 1988⁴⁹, whose paragraph 01 of Article 202 provides for establishing an insurance fund to cover the agricultural disasters and face the non-insurable risks. Besides, paragraph 02 shows the methods and financial conditions of managing the Fund through the regulation, which was issued in 1990 by the Executive Decree 90-158⁵⁰. In this context, Article 02 of the Decree provides that the aim of establishing the Fund is compensating for the material damages caused by the agricultural disasters against the agricultural investments, and encouraging the expansion of insurances against the agricultural risks. In this regard, the agricultural disasters are the exceptionally important damages resulting from a natural phenomenon, and that can neither be expected, prevented, nor insured. If these damages are comprehensive natural national disasters due to their wide scope, they are subject to special measures outside the scope of decree 90-158⁵¹.

The latter shows in its second chapter the organization and work of the Fund. In this regard, it shows its resources and expenses, and provides for establishing national, Wilaya, or municipal agricultural disasters committees. In addition, chapter three discusses the methods and conditions of compensation, and has a specific section for encouraging investment. However, we notice that this Fund had been suspended since 2000, leading to the exception of the agricultural disasters from the insurance⁵².

Article 10 of Order 03-12 on the compulsory insurance against the natural disasters and compensation for the victims⁵³ excluded covering the damages that affect the non-stored crops, the lands, and the cattle outside the buildings, unlike the crops and the cattle inside the buildings, which are exempted from the compulsory insurance and are subject to the provisions of Order 03-12 and the complementary decrees and regulations⁵⁴. In this context, Article 1/1 of the same Order obliged the estate owners in Algeria, be them a natural or moral person, except the state, to underwrite an insurance contract to insure the property against the effects of the natural disasters.



3. The National Fund for Agricultural Cooperation:

It dominates the agricultural insurance market and is the oldest operator in the field. It gathers 03 funds, namely the Central Fund for Reinsurance for the Agricultural Cooperation, the Central Fund for Social Agricultural Collaboration, and the Agricultural Collaboration Fund for Retirement. It aimed at protecting the properties and people in the rural regions and the agriculture-related activities (the agricultural insurance, the retirement, and the agricultural social insurance⁵⁵). In this context, Article 01 of Order 72-64 on the establishment of the agricultural cooperation⁵⁶ that established the National Fund for the Agricultural Cooperation⁵⁷ provided that the agricultural cooperation is a professional agricultural institution that aims at making all the social prevention, insurance, and reinsurance processes for its adherents and beneficiaries based on cooperation with no profitable aims. It insures people and funds and covers all the risks that threaten the agricultural profession and those under the tutorship of the Minister of Agriculture and the Agricultural Reform. In addition, it guarantees paying the aids, including the family allowances and birth giving costs.

The Agricultural Mutual was established in the beginning of the century. Until 1972, it had been subject to the provisions of Law 1901 on the commercial and non-profitable professional organizations. Its workers had reached 2870 until 31-12-2018, divided on 67 regional funds and 483 local offices. The Fund, as a basic economic operator, aims at being a rural and agricultural company par excellence, which has a vital role within the development strategy launched by the authorities to ensure the food security and maintain the high position in the field of agricultural insurance thanks to the different marketed insurance products.

For instance, in the field of vegetal insurance, we find insurance of crops against fires, insurance of crops against cold, insurance of green houses against different risks, insurance of trees nurseries and vines in the fields, insurance of the forest nurseries, etc. As for the animalistic insurance, we find insurance of the cows, sheep, chicken, camels, rabbits, and fish. Besides, we find insurance of private cars and agricultural equipments, the border insurance of cars⁵⁸, etc. The late years witnessed the emergence of different insurance companies that provide some agricultural insurance products, what creates competition that serves the agricultural field.

CONCLUSION:

The agricultural insurance is one of the main insurance types for the international economies. Our findings show that:

- The agricultural insurance is a contract between the agricultural investor and the insurance company that must pay a compensation when the insured risk takes place, in return for a financial premium.
- The agricultural insurance is based on cooperation and participation, which create stability and reassurance for the farmer and support him in developing productivity and achieving the target development.
- Underwriting insurance contracts is compulsory for the agricultural investor and covers the risks he and his activity face.
- Despite the diversity of the agricultural risks, reality shows that there is little interest in the agricultural insurance by the law, the agricultural investors, and the insurance companies.

Therefore, we suggest that:

- The insurance companies, banks, and the National Office of the Agricultural Lands must promote the insurance culture amid the agricultural investors.
- The agricultural investors must be encouraged to underwrite insurance contracts against the agricultural risks resulting from the natural disasters, which cost the state budget huge amounts.
- The authorities must enact a law on the agricultural insurance to regulate all the related issues.



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