

## **The Necessity of Regulating Insurance against the Effects of Agricultural Disasters in Algerian Legislation**

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### **Abstract:**

*Insurance against the effects of agricultural disasters serves as a means to protect agricultural investors and farmers from losses resulting from such disasters. While the Algerian legislator has addressed insurance for agricultural risks, it has not specifically regulated insurance against the effects of agricultural disasters through a dedicated law. This article seeks to*

*distinguish between the concepts of insurance for agricultural risks and insurance against the effects of agricultural disasters, as well as the various institutions that provide guarantees in the event of their occurrence. Ultimately, it underscores the necessity for the Algerian legislator to enact a law regulating insurance against the effects of agricultural disasters.*

**Keywords:** *Agricultural risks; agricultural disasters; agricultural mutual insurance; agricultural insurance; prevention authority.*

### **Introduction:**

*Agricultural activity is one of the most strategic and economic activities for any nation, playing a vital role in social and economic life. It serves as a source of income for farmers, contributes to food security, and bolsters the national economy. However, this sector is exposed to climatic risks such as hail, storms, frost, floods, insect infestations, epidemics, fires, and more. Agricultural insurance thus becomes a means to cover these risks, ensuring the stability of agricultural production and enabling the sector to fulfill its economic and social role. The risks faced by the agricultural sector vary in severity, ranging from ordinary agricultural risks to major agricultural disasters. Given the climatic changes that can lead to significant damage, it has become imperative to regulate insurance against agricultural disasters to protect farmers and agricultural investors, thereby promoting sustainable development in the sector.*

*Farmers face recurring risks such as droughts, floods, storms and*

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*plant diseases, which can cause substantial losses in agricultural production and impact their income. These risks are further exacerbated by the increasingly evident effects of climate change in recent years, with a rise in extreme weather phenomena like floods, hurricanes and droughts. This necessitates intensified efforts to address these risks. Under these circumstances, there is a growing need for effective regulation of insurance against the effects of agricultural disasters to safeguard farmers from significant losses and enhance the sustainability of agricultural production.*

*This raises the following question: Does insurance for agricultural risks cover the consequences of agricultural disasters?*

*To answer this question, it is essential to distinguish between agricultural risks and agricultural disasters (Section 1) and then outline the conditions for obtaining compensation under insurance against agricultural disasters (Section 2).*

**Section 1: The Need to Distinguish Between Agricultural Risks and Agricultural Disasters in terms of Definition:**

*Agricultural investors enter into insurance contracts to cover risks threatening their agricultural ventures. However, agricultural disasters differ from agricultural risks in terms of definition (Subsection 1) and the institutions responsible for insuring them, as well as the types of contracts offered to agricultural investors (Subsection 2).*

**Subsection I: Distinguishing Agricultural Disasters from Agricultural Risks in Terms of Definition:**

*Executive Order No. 95-07 on insurance<sup>(1)</sup> does not define agricultural disasters. Articles 49, 50, and 51 address insurance for animal mortality, while Article 52 of the same order covers insurance for climatic risks, delegating to regulations the task of specifying the conditions and methods for guaranteeing agricultural risks, in consideration of legislative and regulatory texts on plant pests and natural disasters. The Algerian legislator did not use the term “agricultural disasters” but rather “agricultural calamities,” employing the French term “calamités agricoles” rather than “catastrophes agricoles”. To date, no specific legislative or regulatory texts have been issued to organize agricultural disasters or calamities.*

*Agricultural disasters are exceptional risks resulting from natural phenomena that cannot be mitigated (Subsection 1.1) and are non-insurable (Subsection 1.2).*



***Subdivision 1: Agricultural Disasters as Exceptional Risks Arising from Uncontrollable Natural Phenomena:***

*For an agricultural disaster to fall under the scope of insurance against its effects, it must result from a natural phenomenon (firstly), be of exceptional significance (secondly), and involve a natural phenomenon of exceptional significance that cannot be mitigated (thirdly) and it must affect the agricultural venture (fourthly).*

***Firstly: Agricultural Disasters Result from Natural Phenomena:***

*The disaster must stem from a natural phenomenon, i.e., an act of nature rather than human action. Natural phenomena include floods, storms, lightning, hail, frost, etc. An agricultural disaster is thus a natural event that impacts agricultural activity.*

***Secondly: Agricultural Disasters Cause Exceptionally Significant Damage:***

*According to the Algerian legislator's definition of agricultural disasters set out in Article 4 of Executive Decree No. 12-251 of 5 June 2012, which establishes the organisation and functioning of the Agricultural Disaster Guarantee Fund<sup>(2)</sup>, a natural phenomenon that causes agricultural damage may entitle the affected party to compensation from the said Fund. However, it is not merely the fact that the damage originates from a natural phenomenon such as floods or storms that qualifies it as an "agricultural disaster", but rather the "exceptional severity" of the resulting damage. It follows that damage lacking such exceptional significance is deemed insurable and may be covered under ordinary insurance contracts. Such damage does not qualify as an agricultural disaster, but rather as ordinary agricultural risks that are subject to standard agricultural insurance.*

***Thirdly: The Natural Phenomenon Constituting the Disaster Cannot Be Mitigated:***

*In addition to the requirement that an agricultural disaster must result in damage of exceptional significance, it is also necessary that the natural phenomenon in question be one that cannot be mitigated by ordinary technical means of prevention and control. If the agricultural investor is capable of averting such exceptional damage through standard technical prevention and control methods, the phenomenon cannot be classified as an agricultural disaster, since it could have been contained<sup>(3)</sup>. Therefore, both conditions must be met cumulatively.*

***Fourthly: The Agricultural Disaster Must Affect the Agricultural Venture:***

*For a natural phenomenon to be classified as an agricultural disaster and warrant compensation from the Agricultural Disaster Guarantee Fund, it must impact the agricultural venture, which comprises movable and immovable assets, livestock, poultry, fields, orchards, investments, and intangible values, including local customs<sup>(4)</sup>.*

*If the exceptional natural phenomenon does not affect the agricultural venture but instead damages built properties, industrial or commercial facilities insured under natural disaster insurance contracts, it is classified as a natural disaster and falls under the provisions of Executive Order No. 03-12<sup>(5)</sup>, with compensation provided by the Natural Disaster Guarantee Fund.*

*According to Article 2 of Executive Decree No. 12-251, which governs the organisation and operation of the Agricultural Disaster Guarantee Fund, the Fund provides urgent assistance for the restoration of agricultural activity and offers full or partial compensation for uninsured risks caused by agricultural disasters affecting farming operations. The same article refers to Article 45 of Law No. 08-16 on Agricultural Guidance, which defines agricultural activities as those involving the management and exploitation of a biological cycle of a plant or animal nature, constituting one or more essential stages of that cycle. It also includes activities that take place throughout the production process, in particular the storage, packaging, processing, and marketing of plant or animal products, provided that such products originate exclusively from the agricultural venture.*

***Subdivision 2: Agricultural Disasters as Non-Insurable Exceptional Risks:***

*Article 202 of Law No. 87-20, dated December 23, 1987, on the 1988<sup>(6)</sup> Finance Law, establishes the Agricultural Disaster Guarantee Fund to address "non-insurable risks," delegating to regulations the task of specifying the financial terms and conditions for managing the fund. Executive Decree No. 90-158, dated May 26, 1990, organizing the Agricultural Disaster Guarantee Fund and its operations<sup>(7)</sup>, defines agricultural disasters as "exceptional, non-insurable damages resulting from a natural phenomenon that could not be mitigated by*



*ordinary technical means of prevention and control<sup>(8)</sup>.*”

*If such damages take on the character of widespread national disasters due to their scale, they are subject to special measures and fall outside the scope of this decree.*

*Where the damage referred to in the previous paragraph assumes the character of a large-scale national disaster due to its widespread extent, it shall be subject to special measures and, in this sense, falls outside the scope of application of this Decree.*

*However, Executive Decree No. 90-158 was repealed by Executive Decree No. 12-251 of 5 June 2012, which governs the organisation and functioning of the Agricultural Disaster Guarantee Fund. Article 4 of the latter defines agricultural disasters as “damage of exceptional importance resulting from a natural phenomenon that could not be prevented by the usual technical means of prevention and control or where such means proved ineffective.” Despite the repeal of Executive Decree No. 90-158, the definition of agricultural disaster remains incomplete without the additional criterion stipulated in Article 4 of the repealed decree, namely, that such damage must be “uninsurable.” This condition is notably absent from the currently applicable Executive Decree No. 12-251.*

*For a risk to be insurable, it must meet both legal and technical requirements. While agricultural disasters generally fulfil the legal conditions for risk (firstly), they do not necessarily meet all the technical criteria (secondly).*

***Firstly: Fulfilment of the legal conditions applicable to an exceptional risk constituting an agricultural disaster:***

*A risk must be uncertain—that is, it may or may not occur; or, even if its occurrence is certain, the timing must remain indeterminate (as in the case of life insurance). Agricultural risks are, by nature, uncertain. Moreover, the occurrence of the risk must not depend on the will of the insured party, as this would negate its uncertain character. For instance, if an insured party intentionally damages their own agricultural products, the insurer is not obliged to provide compensation, as the damage stems from the insured’s own actions. An exception is made, however, in the case of animal mortality insurance: under Article 49 of Ordinance No. 95-07 on insurance, coverage remains valid when animals are slaughtered preventively or to limit damage, provided such action is ordered by public authorities or the*

*insurer. Furthermore, intentional harm caused by third parties may be insured.*

*The risk must also be lawful, meaning that it should not contravene public order or public morality. Finally, the object of the insurance must involve a legitimate economic interest.*

*Based on these criteria, it is evident that both agricultural risks and agricultural disasters share the same legal characteristics: they are uncertain, not subject to the will of the insured, and do not conflict with public order, as they arise independently of human intent.*

***Secondly: The lack of technical conditions renders agricultural disasters uninsurable:***

*The technical conditions for insurability require that a risk be measurable, with the Law of Large Numbers serving as the standard tool for such measurement. This principle refers to the repeated occurrence of a specific risk in a defined location and timeframe across a large population.*

*According to repealed Executive Decree No. 90-158, the uninsurability of a risk was attributed to insurance techniques. Article 25 of that Decree stipulated that: “Only damage deemed uninsurable under the current state of insurance techniques may benefit from compensation from the Fund.”*

*In order for a risk to be measurable, it must be dispersed, homogeneous, occur at regular intervals, and not be generalised. When these conditions are met, the probability of the risk occurring can be estimated more accurately, which benefits both the insurer and the insured: the insurer is better equipped to meet its obligations, and the premium remains affordable for the insured.*

*The risk must be dispersed, meaning it should not be concentrated in a single location or occur at the same time. Spatial concentration, such as a region prone to frequent earthquakes, complicates insurance feasibility. Similarly, temporal concentration—when a disaster occurs simultaneously in multiple places—renders the insurer unable to address the resulting claims. Technically, it is very difficult to insure against disasters that strike simultaneously. The risk must also be homogeneous in terms of its nature, object, and duration. Classification by nature entails distinguishing each risk type and further subclassifying within each category. Classification by object, for instance, involves grouping insured persons by age in life insurance, or*

*categorising assets as movable or immovable in fire insurance, with further breakdown based on building materials. Classification by duration involves assessing the exposure period to a given risk; in life insurance, this entails distinguishing between whole-of-life and term policies of varying lengths. Furthermore, the risk must occur at regular intervals, that is, not rarely—as in the case of nuclear risks, which are statistically unmeasurable—and not too frequently, so as not to impose excessive costs on the insurer. This technical condition is not met in the case of agricultural disasters, which tend to be irregular and highly severe.*

*Article 4(2) of the repealed Executive Decree No. 90-158 provides: “Where the aforementioned damage assumes the nature of widespread national disasters due to its scope, it shall be subject to special procedures. In this sense, it falls outside the scope of this Decree.”*

*Agricultural disasters are thus considered uninsurable risks due to their failure to meet the technical criteria of insurability. Consequently, any form of coverage—whether through insurers or State intervention—must be governed by a dedicated legal and regulatory framework.*

**Subsection II: Distinction Between Agricultural Risks and Agricultural Disaster Insurance Institutions:**

*In order to avoid confusion between insurance against agricultural risks and insurance against agricultural disasters, it is important to emphasise that institutions covering agricultural risks (Division 1) differ from those responsible for agricultural disaster insurance (Division 2). If the former agree to cover agricultural disasters, this is done under specific and exceptional conditions—an area which remains unregulated by the Algerian legislator. As a result, the subscription rate for agricultural disaster insurance contracts remains extremely low.*

***Division I: Insured Agricultural Risks and Their Insurance Providers:***

*Insurance companies have begun to market agricultural risk insurance products, a field that was previously monopolised by the National Agricultural Mutual Insurance Fund. Although both private and public insurance providers now offer similar types of coverage, the following overview is based on the products most commonly marketed by general and private insurers (firstly) as well as agricultural mutual insurance cooperatives (secondly).*



**Firstly: Agricultural Risks Covered by Insurance Companies:**

Insurance coverage for agricultural risks is no longer the exclusive domain of State-established funds. Both public and private insurance companies are now authorised to offer agricultural insurance operations as defined by Executive Decree No. 95-338 of 30 October 1995, which established the list of insurance operations<sup>(9)</sup>, as amended by Executive Decree No. 02-293 of 10 September 2002<sup>(10)</sup>. According to this decree, agricultural risks—referred to by the Algerian legislator as “agricultural risks”—include hail, frost, drought, livestock mortality, poultry mortality and similar events, bee mortality, the death of other animals, and agricultural and other damages. The list also includes fire, explosion, and storms under the general category of agricultural risks. (Furthermore, the decree provides for agricultural credit insurance and civil liability insurance in general, including professional liability. This implies that liability insurance for farmers and agricultural investors is not excluded from the scope of coverage.)

These risks are to be understood as agricultural risks, not agricultural disasters or agricultural calamities, as designated in Ordinance No. 95-07 on insurance, which excluded such disasters from the scope of coverage for ordinary agricultural risks.

In practice, insurance companies offer policies under the umbrella of agricultural insurance covering crop insurance, livestock insurance, and multi-risk policies.<sup>(11)</sup>

These are the agricultural risks covered by insurance companies. The risks covered by agricultural mutual insurance societies (mutuals) are as follows.

**Secondly: Agricultural Risks Covered by Agricultural Mutual Insurance Societies:**

According to Article 67 of Law No. 08-16 on Agricultural Guidance, an agricultural mutual insurance society is a professional body aimed at carrying out all insurance and reinsurance operations as well as credit services based on the principles of solidarity and mutual support for its affiliated members and beneficiaries. These mutual funds are civil companies of a mutual nature, non-profit by definition, and established by a formal legal act. Regional agricultural mutual funds are grouped into a National Agricultural Mutual Insurance Fund.<sup>(12)</sup>

We will consider the National Agricultural Mutual Insurance Fund (1), the Regional Agricultural Mutual Insurance Funds (2), and the



*Agricultural Guarantee Fund (3).*

**1) National Agricultural Mutual Insurance Fund (CNMA)(13):**

*It is necessary to introduce the National Agricultural Mutual Insurance Fund (CNMA) (a), followed by a presentation of its insurance products (b).*

**a-Overview of the National Agricultural Mutual Insurance Fund (CNMA):**

*The National Agricultural Mutual Insurance Fund (CNMA) is the leading insurer in the field of agricultural risks. It was established in 1972 under Article 2 of Ordinance No. 72-64 of 2 December 1972 concerning the organisation of agricultural mutualism<sup>(14)</sup>. According to Article 1, paragraph 2 of this ordinance, agricultural mutualism includes all activities relating to social welfare, insurance and compensation.*

*Initially, the CNMA was composed of the Central Fund for Agricultural Mutual Reinsurance<sup>(15)</sup>, the Central Fund for Agricultural Social Mutualism<sup>(16)</sup>, and the Agricultural Mutual Pension Fund<sup>(17)</sup>. Later, pension and social security schemes for farmers were transferred to the National Fund for Non-Salaried Workers.*

*Executive Decree No. 90-147 of 22 May 1990, issued in implementation of the now repealed Insurance Law No. 80-07, authorised the CNMA to carry out insurance operations<sup>(18)</sup>, including fire insurance for crops, facilities, buildings, and dwellings; livestock mortality; hail; professional civil liability; water damage; theft; glass breakage in agricultural buildings and dwellings; and all risks arising from the use of mobile agricultural equipment and land vehicles, as well as personal insurance.*

**b-Insurance Products Offered by the National Agricultural Mutual Insurance Fund (CNMA)<sup>(19)</sup>:**

*These are grouped into:*

- Plant Production Insurance,*
- Animal Production Insurance,*
- Industrial Risk Insurance.*

*In addition to the National Agricultural Mutual Insurance Fund, there are also Regional Agricultural Mutual Insurance Funds.*

**2) Regional Agricultural Mutual Insurance Funds (CRMA):**

*According to Article I of Annex II of Executive Decree No. 95-97<sup>(20)</sup>, a CRMA consists of natural and legal persons active in the fields of*

*agriculture, fisheries, aquaculture and related activities, who adhere to the statutes and subscribe to shares granting them the status of partner.*

*The CRMA aims to promote agriculture, fisheries, aquaculture, and rural development by offering services and financial contributions to its partners. Its missions include insuring property and persons in its respective sectors, in accordance with current legislation.*

### **3) Agricultural Guarantee Fund (FGA):**

*The Agricultural Guarantee Fund was established in 1987 to guarantee and secure the repayment of investment and operational loans. It was originally organised under Decree No. 87-82<sup>(21)</sup>, repealed by Executive Decree No. 95-98 of 1 April 1995 relating to the Agricultural Guarantee Fund.<sup>(22)</sup> Its mission is to guarantee short- and medium-term loans granted by credit institutions to members of the fund. The FGA operates under the supervision of the Minister of Agriculture and is managed by the National Agricultural Mutual Insurance Fund.*

#### **Division II: Institutions for the Insurance of Agricultural Disasters:**

*Agricultural disaster insurance is provided primarily by the Agricultural Disaster Guarantee Fund (FGCA) (firstly). However, given the considerable burden placed upon this fund, it is imperative to establish a dedicated authority for the prevention of agricultural disasters (secondly).*

#### **Firstly: The Agricultural Disaster Guarantee Fund (FGCA):**

*The Agricultural Disaster Guarantee Fund was established under Article 202 of Law No. 87-20 of 23 December 1987 bearing Finance Law for the year 1988<sup>(23)</sup>, which states: “An Agricultural Disaster Guarantee Fund shall be established to address uninsurable risks.” The same article delegated the specification of financial and operational modalities of the Fund to regulations, which materialised in Executive Decree No. 90-158 of 26 May 1990 concerning the organisation and operation of the Agricultural Disaster Guarantee Fund.<sup>(24)</sup>*

*The decree defined the Fund’s mission as twofold: compensating agricultural ventures for material losses caused by agricultural disasters, and encouraging the expansion of agricultural risk insurance. Agricultural ventures were defined as those involved in plant or animal production, including so-called “off-ground” activities such as cattle and sheep fattening or poultry farming. Article 4 of the*

*Executive Decree defined agricultural disasters as “exceptional damage that is uninsurable, resulting from a natural phenomenon that could not be prevented or controlled by standard technical prevention and mitigation methods.” However, if the scale of damage qualifies it as a widespread national disaster, it falls under special procedures. According to Article 26 of the same decree, for a farmer or agricultural investor to benefit from compensation, they must have subscribed to insurance covering at least one of the following: fire, hail, or livestock mortality.*

*The Fund was managed by the National Agricultural Mutual Insurance Fund (CNMA). Agricultural disaster committees were also established at the national, provincial and municipal levels.*

*In 2000, the Ministry of Agriculture froze the Fund’s operations to allow for reform and restructuring. Moreover, legislation introduced in 2003 concerning natural disaster insurance explicitly excluded agricultural disasters from its scope due to their specificity, thereby requiring a dedicated legal framework. Later, Executive Decree No. 12-251 of 5 June 2012 repealed the earlier decree (No. 90-158) and reorganised the Agricultural Disaster Guarantee Fund. The new decree no longer listed the promotion of agricultural risk insurance among its objectives; instead, it focused on emergency assistance to restore agricultural activity and partial or full compensation for uninsured losses caused by agricultural disasters. It no longer included any provision relating to insurance.*

**Secondly: Authority for the Prevention of Agricultural Disasters:**

*This section addresses, firstly, the disaster prevention bodies provided under Law No. 24-04 of 26 February 2024 on disaster risk prevention, intervention, and mitigation within the framework of sustainable development<sup>(25)</sup> (1); and secondly, the need for a dedicated authority to deal with agricultural disasters specifically (2).*

**1. Inclusion of prevention bodies under Law No. 24-04 relating to the rules of prevention and intervention for all types of disasters:**

*Law No. 24-04 of 26 February 2024, which lays down the rules for prevention, intervention, and risk reduction related to disasters within the framework of sustainable development, defines the various disaster risks. It introduces new types of risks that were not covered by the now-repealed previous law<sup>(26)</sup>. These new risks include space risks, coastal erosion, sea level rise, cyber risks, biotechnological risks, and locust*

*infestations, in addition to earthquakes, geological risks, desertification, drought, and climate-related risks.*

*The disaster risks identified in Law No. 24-04 are as follows: earthquake risks, geological risks, flood risks, extreme climate risks, forest fire risks, industrial and energy-related risks, space risks, nuclear and radiological risks, risks affecting human health, risks affecting animal and plant health, air, marine, or water pollution risks, risks associated with large human gatherings, desertification risks, drought risks, coastal erosion and sea level rise, cyber risks, locust infestation risks and biotechnological risks.*

*From this list, the following risks are directly relevant to agricultural disasters: Earthquakes risks, Geological risks, Floods, Extreme climatic events risks, Forest fires risks, Animal and plant health Risks, Pollution risks (air, marine or freshwater), Desertification risks, Drought risks, Coastal erosion and sea level rise risks, Locust invasions risks.*

*The main goal of Law No. 24-04 is to protect human life, limit damage, and ensure the resilience of basic infrastructure and services.*

*Disaster risk prevention, intervention, and mitigation within the framework of sustainable development represent a comprehensive system initiated and led by the state, supported by scientific bodies, and implemented by public institutions, agencies, and local communities, each within their area of expertise. This is done in consultation with both public and private economic operators and with the participation of civil society, in accordance with the conditions outlined in this law (No. 24-04 on the rules of prevention, intervention, and disaster risk reduction within the framework of sustainable development). Additionally, the National Disaster Risk Delegation is responsible for evaluating and coordinating the preventive actions within the national system.<sup>(27)</sup>*

*Furthermore, Law No. 24-04 provides for the possibility of creating institutions, bodies, and committees to strengthen scientific and technological research, and to promote, coordinate, and evaluate sectoral programmes related to disaster risks<sup>(28)</sup>. It also introduces the General Risk Prevention Plan, developed based on data collected in relation to disaster prevention and mitigation. This data enables the identification of the national early warning and surveillance systems, as well as the designation of reference institutions, agencies, and*



*laboratories responsible for monitoring and issuing alerts about disaster risks<sup>(29)</sup>.*

*In addition to this comprehensive disaster prevention framework, the law includes additional preventive measures, notably the introduction of a national insurance system against disaster risks, aimed at enhancing the protection of persons and property. Subscription to this system is compulsory, and the system must be efficient, accessible, and effective, ensuring that disaster victims receive fair and timely compensation<sup>(30)</sup>. However, the Algerian legislator has not specified any sanction for non-subscription to this system. The law also stipulates that the State may provide financial or in-kind aid to disaster victims in accordance with applicable legislation and regulations<sup>(31)</sup>. Yet, this possibility of receiving aid does not encourage individuals to subscribe to disaster insurance.*

*Law No. 24-04 is, by nature, general and encompasses all types of disasters; it does not provide specific provisions for agricultural disasters. Therefore, there is a need to create a dedicated authority for the prevention of agricultural disasters.*

## **2. The Need to Establish a Special Authority for the Prevention of Agricultural Disasters:**

*Although Law No. 24-04 applies to all types of disasters, it does not specifically address agricultural disasters, nor does it provide detailed provisions for them. It is therefore necessary to adopt a special legal framework for agricultural disasters and to establish a dedicated body to ensure the availability of rapid response mechanisms tailored to agricultural contexts.*

*The National Council of Insurance<sup>(32)</sup> had proposed a draft law on agricultural disaster insurance, which has not yet been adopted. The draft included provisions for the creation of an Agency for the Prevention of Agricultural Risks, intended to offer technical support to farmers and assist insurance companies in all matters related to agricultural risks.*

*This Agency would be responsible for taking all necessary measures to design and establish a comprehensive database on agricultural risks, and for developing activities in prevention, monitoring, and technical advisory services. This would contribute to informed decision-making in the field of agricultural risk management. The agency would operate under the supervision of the Ministry of Agriculture and Rural*

*Development.*

**Section II: Conditions for Obtaining Compensation (Calamities)  
Under Agricultural Disaster Insurance:**

*In order to obtain compensation under agricultural disaster insurance, it is necessary to subscribe to an insurance contract covering the effects of agricultural disasters (subsection 1). Furthermore, a ministerial joint order must be issued to declare the affected zones as disaster areas (subsection 2).*

**Subsection 1: The Obligation to Subscribe to Agricultural Disaster Insurance:**

*Under Law No. 08-16 on Agricultural Guidance, insurance is required to access State support for agricultural activities (excluding agricultural disasters) (division 1). However, it is not required to receive solidarity-based aid in the event of natural disasters (division 2). This leads to the proposal that the Algerian legislator should render agricultural disaster insurance mandatory (division 3). In the meantime, farmers who do not subscribe to such insurance should be required to contribute financially to the Agricultural Disaster Insurance Guarantee Fund (division 4).*

**Division 1: Insurance Requirement Under Law No. 08-16 to Access State Support (Excluding Agricultural Disasters):**

*Financial support from the State constitutes a form of public funding for agricultural activity<sup>(33)</sup>. It is available to agricultural investors, and Decision No. 278, issued by the Minister of Agriculture on 13 July 2014, sets out the conditions of eligibility for accessing support from the Special Allocation Account of the National Agricultural Development Fund, as well as the types and amounts of subsidies based on the nature of the agricultural activity<sup>(34)</sup>.*

*According to Article 45 of Law No. 08-16, agricultural activities include: "Activities involving the management and exploitation of a biological cycle of plant or animal nature, constituting one or more essential stages in that cycle, as well as post-harvest operations such as storage, packaging, processing, and marketing, provided that the products originate exclusively from the agricultural venture."*

*An agricultural venture, under Article 46 of the same law, is defined as: "A productive unit consisting of movable and immovable assets, livestock, poultry, fields, orchards, developed investments, and intangible assets, including local customs and practices."*



*All agricultural investors engaged in agricultural activities and benefiting from any form of State support or assistance, regardless of its nature or modalities, are required to subscribe to insurance contracts, as stipulated by Article 69 of Law No. 08-16. According to this provision, agricultural insurance is mandatory for all agricultural activities. However, it is understood from this article that the obligation to subscribe is a condition for eligibility for public support under Law No. 08-16. This means that an investor who does not subscribe to insurance is not entitled to benefit from State support or subsidies. Nevertheless, this type of insurance is not mandatory in the same sense as other statutorily compulsory insurances, such as third-party liability insurance. The insurance subscribed in this context only covers standard agricultural risks, and does not extend to agricultural disasters.*

*The term “farmer” refers to any natural person engaged in agricultural activities on a regular and continuous basis, who owns land or livestock and personally manages and supervises agricultural operations. The farmer may delegate management to a third party, who then acts as a managing agent under the authority and responsibility of the landowner. The farmer must also hold a valid lease or usufruct contract that is formally declared, either in cash or in kind<sup>(35)</sup>.*

**Division 2: Absence of an Insurance Requirement in Law No. 08-16 to Access Solidarity-Based Disaster Aid:**

*In cases of natural disasters or unforeseeable risks, particularly in the event of non-insurable catastrophes (erroneously referred to in some texts as “uninsured”), agricultural investors may benefit from national solidarity aid, granted in accordance with applicable legislation and regulations (Article 70).*

*While agricultural risks are insurable and allow for compensation via standard insurance contracts, agricultural disasters are not insurable, and agricultural investors are not required to hold insurance contracts to obtain compensation for such events. No specific legal framework currently regulates insurance against the effects of agricultural disasters. Pursuant to Executive Decree No. 12-251, agricultural disasters are handled through emergency measures aimed at restoring agricultural activity in affected areas<sup>(36)</sup>. These include: reconnecting isolated ventures and farmland, removing damaged plants, draining plots, soil preparation for replanting, preventive*

*treatment to protect plant and animal health, providing inputs such as seedlings, seeds, and livestock, as necessary and any other necessary operations in affected zones to ensure the swift resumption of agricultural activity.<sup>(37)</sup>*

*Thus, the State's current policy favours direct aid to farmers who suffer from non-insurable agricultural disasters.*

***Division 3: The Necessity of Making Agricultural Disaster Insurance Compulsory:***

*Agricultural disasters are risks that cannot be insured. The now-repealed Executive Decree No. 90-158, which organized the Agricultural Disaster Guarantee Fund and its operations, required agricultural investors to subscribe to regular agricultural insurance contracts in order to benefit from compensation for material damage caused by agricultural disasters to agricultural investments (such as insurance contracts for fire, hail, or livestock death). However, Executive Decree No. 12-251, which replaced Decree No. 90-158 and governs the Agricultural Disaster Guarantee Fund and its operations, does not require the subscription of insurance contracts to receive compensation for damage resulting from agricultural disasters. This can be seen as encouraging agricultural investors not to insure against agricultural disasters.*

*Yet, subscribing to regular agricultural insurance contracts (i.e., not for agricultural disasters) in order to receive compensation for agricultural disasters is not practically acceptable due to the scale of the losses caused by such disasters. Given that the Algerian legislator has not yet regulated insurance for agricultural disasters, it is now essential for them to intervene and regulate it by making insurance against the effects of agricultural disasters mandatory. This is due to the large scale of the damage inflicted on agricultural investments. However, it should not be done merely by signing contracts for insurable agricultural risks; a structured regulation is needed that serves the interests of all actors in the insurance field, including the insured, insurers and the state.*

***Division 4: Obligation for Uninsured Farmers to Contribute to the Agricultural Disaster Insurance Guarantee Fund:***

*It is unjust for individuals who comply with the law and take preventive measures to be treated equally to those who do not. Therefore, a farmer who fails to subscribe to agricultural disaster*

*insurance should not receive the same compensation under the national solidarity scheme as one who does. Why should a farmer be compensated without an insurance contract or premium payment, just as one who has met these obligations? Accordingly, compensation under the solidarity scheme should not be granted solely on the basis of proof of loss<sup>(38)</sup>. Additional conditions should be imposed to encourage farmers to subscribe to agricultural disaster insurance in the future.*

*Therefore, we believe it is necessary to add a condition that allows agricultural investors who have not subscribed to insurance to benefit from compensation from the Agricultural Disaster Guarantee Fund. This condition would require these investors to contribute to the Agricultural Disaster Guarantee Fund.<sup>(39)</sup>*

*Moreover, the compensation granted should be significantly lower—no more than half the amount granted to insured farmers, or possibly even less. The valuation should be determined by specialists in actuarial science and insurance techniques, who would factor in the absence of insurance coverage. In this way, national solidarity becomes a partial safety net, while full compensation remains conditional on insurance subscription—thereby encouraging responsible behaviour among agricultural investors.*

**Subsection 2: Requirement for a Ministerial Joint Order Declaring Disaster Areas:**

*In order for an agricultural investor affected by a disaster to receive compensation, Executive Decree No. 12-251 (Article 17) requires the issuance of a ministerial joint order by the Ministers of the Interior, Finance and Agriculture, officially declaring the affected municipalities as disaster areas. This declaration must be based on a proposal by the provincial technical committee on agricultural disasters<sup>(40)</sup>.*

*However, unlike the repealed Decree No. 90-158<sup>(41)</sup>—which expressly granted the right of appeal in the event of refusal to declare a disaster—Decree No. 12-251 does not clearly provide such a right. Article 23 of the repealed decree stated: “If the governor refuses to endorse the proposed declaration of an agricultural disaster, representatives of professional organisations may file an appeal with the national committee, which may order a fact-finding investigation to enable it to make a decision.”*

*However, Article 22 of Executive Decree No. 12-251, which states that “Victims of the damage covered by this decree may submit any appeal to the Minister in charge of agriculture,” could be understood to refer specifically to appeals regarding claims submitted by the affected party or their rightful beneficiaries to the regional mutual agricultural fund or the territorially competent agricultural subdivision, where applicable. In this sense, it may relate only to disputes over the eligibility of the agricultural investor for compensation after the declaration of an agricultural disaster. Therefore, the Algerian legislator should have explicitly stated the right of the agricultural investor to file an appeal before the competent authority in order to request an expert investigation, which could enable that authority to decide whether to declare an agricultural disaster and designate the affected area as a disaster zone. According to this decree, appeals are submitted to the Minister in charge of agriculture.*

*Among the responsibilities of the provincial technical committee on agricultural disasters is the prompt conduct of fact-finding missions and damage assessments, in cooperation with the regional agricultural mutual fund. These activities must culminate in technical reports that include climatic, agronomic, and economic data, along with a detailed account of the losses incurred. The committee is also responsible for recommending urgent recovery measures and outlining aid operations to support the rehabilitation of affected agricultural ventures.*

*The provincial-level technical committee for agricultural disasters is composed of: The Wali (Governor) or their representative, as Chair; The Director of Agricultural Services and/or the Forests Conservator; The State Treasurer or their representative; The President of the provincial Agricultural Chamber; The Chair of the Board of Directors of the Regional Agricultural Mutual Fund, based on a proposal by the National Agricultural Mutual Fund, in case several funds exist within the province.*

*The committee may call upon any person who may assist it in its work. The secretary of the committee is the Director of the Regional Agricultural Mutual Fund, upon proposal by the National Agricultural Mutual Fund.*

*What is the fate of agricultural investors who have subscribed to insurance policies against agricultural disasters but are affected by*

*disasters not covered by a ministerial joint order officially declaring the disaster and designating the area as affected?*

**Conclusion:**

*This scientific paper has demonstrated the critical importance of establishing an insurance system to protect farmers against agricultural disasters—an essential pillar for ensuring the sustainability of agricultural production. We have distinguished between agricultural risks and agricultural disasters, underlining the significance of classifying risks based on their respective characteristics. Agricultural disasters differ from ordinary risks both in definition and in the institutions responsible for their coverage. We also discussed the conditions required for obtaining compensation for damages caused by agricultural disasters. Based on our analysis, we offer the following **recommendations**:*

*- Urgently adopt a dedicated law governing insurance against the effects of agricultural disasters;*

*- Reinstate the requirement to subscribe to insurance policies in order to benefit from compensation from the Agricultural Disaster Guarantee Fund. Removing this condition has discouraged insurance uptake, weakened the role of insurance providers, and shifted the burden to the State, placing unsustainable pressure on the National Agricultural Mutual Insurance Fund and threatening its long-term viability;*

*- Establish differentiated compensation mechanisms to distinguish between farmers who have subscribed to insurance and those who have not. It is unjust to reward those who comply with the law and take preventive measures in the same way as those who do not;*

*- Explicitly affirm the right of agricultural investors to appeal to the competent authority (the Minister of Agriculture), requesting the launch of a technical investigation that may result in the declaration of an agricultural disaster and the classification of the area as affected;*

*- Establish a dedicated authority responsible for the prevention of agricultural disaster risks;*

*- Provide incentives to encourage farmers to subscribe to this type of insurance, such as tax deductions or partial financial subsidies, thereby easing the fiscal burden on the State;*

*- Encourage research and innovation in agricultural insurance to develop new types of coverage tailored to climate change and*

increasing environmental challenges.

*It is our hope that the relevant authorities will take these recommendations into account to strengthen the resilience of the agricultural sector, ensure adequate protection for farmers, and contribute to national food security and economic stability in Algeria.*

**Referrals and References:**

<sup>(1)</sup>- Official Gazette No. 13, dated 8 March 1995, amended by Law No. 06-04 dated 20 February 2006, Official Gazette No. 15, dated 12 March 2006.

<sup>(2)</sup>- Official Gazette No. 36, dated 5 June 2012.

<sup>(3)</sup>- Théron, Jean-Pierre. "Agricultural Calamities: Legal Framework of Public Assistance and Prospects for Development." In *Droit et Ville*, Vol. 20, 1985. 20th Anniversary of the I.E.J.U.C. – Symposium on Major Natural and Technological Risks: Legal Aspects, 14–15 October 1985, Toulouse, pp. 293–314. DOI: <https://doi.org/10.3406/drevi.1985.1561>. PDF file generated on 03/02/2022, p. 297.

<sup>(4)</sup>- Article 46 of Law No. 08-16 on Agricultural Guidance, dated 3 August 2008, published in Official Gazette No. 46, dated 10 August 2008.

<sup>(5)</sup>- Ordinance No. 03-12 of 26 August 2003 on the Mandatory Insurance of Agricultural Disasters and Compensation of Victims, published in Official Gazette No. 52, dated 27 August 2003.

<sup>(6)</sup>- Official Gazette No. 54, dated 28 December 1987.

<sup>(7)</sup>- Official Gazette No. 22, dated 30 May 1990.

<sup>(8)</sup>- Théron, Jean-Pierre. *Agricultural Calamities: Legal Framework of Public Assistance and Prospects for Development*. In: *Droit et Ville*, Vol. 20, 1985. 20th Anniversary of the I.E.J.U.C. – Symposium on Major Natural and Technological Risks: Legal Aspects, 14–15 October 1985, Toulouse, p. 296 (pp. 293–314). DOI: <https://doi.org/10.3406/drevi.1985.1561>;  
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<sup>(9)</sup>- Official Gazette No. 65, dated 31 October 1995.

<sup>(10)</sup>- Official Gazette No. 61, dated 11 September 2002.

<sup>(11)</sup>- Crops / Crop Insurance / Hail Insurance - [www.caat.dz/index.php/ar/](http://www.caat.dz/index.php/ar/)  
Crops / Livestock Insurance / Multi-Risk Livestock Insurance - [www.caat.dz/index.php/ar](http://www.caat.dz/index.php/ar)

<sup>(12)</sup>- Article 68 of Law No. 08-16.

<sup>(13)</sup>- Yamina Lounissi. *The Role of Agricultural Insurance in the Development of the Agricultural Sector in Algeria: An Econometric Study for the Period 1990–2020*.



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<sup>(14)</sup>- *Official Gazette No. 98, dated 8 December 1972, repealed by Law No. 80-07 on Insurance, itself repealed by Ordinance No. 95-07 on Insurance.*

<sup>(15)</sup>- *CCRMA: Central Reinsurance Fund for Agricultural Mutuals*

<sup>(16)</sup>- *CCMSA: Central Fund for Agricultural Social Mutuals.*

<sup>(17)</sup>- *CMAR: Agricultural Mutual Pension Fund.*

<sup>(18)</sup>- *Official Gazette No. 21, dated 23 May 1990.*

<sup>(19)</sup>- *Yamina Lounissi, op. cit., p. 59.*

<sup>(20)</sup>- *Executive Decree No. 95-97 of 1 April 1995, establishing the model statutes of Agricultural Mutual Insurance Funds and defining the legal and regulatory relationships among them, Official Gazette No. 19, dated 12 April 1995, as amended and supplemented by Executive Decree No. 97-150 of 11 May 1997 and Executive Decree No. 99-273 of 30 November 1999, Official Gazette No. 66, dated 5 December 1999.*

<sup>(21)</sup>- *Dated 14 April 1987, Official Gazette No. 16, dated 15 April 1987.*

<sup>(22)</sup>- *Official Gazette No. 19, dated 12 April 1995.*

<sup>(23)</sup>- *Official Gazette No. 54, dated 28 December 1984.*

<sup>(24)</sup>- *Official Gazette No. 22, dated 30 May 1990.*

<sup>(25)</sup>- *Published in the Official Gazette No. 16 dated 6 March 2024, this law repealed Law No. 04-20 of 25 December 2004 on the prevention of major risks and disaster management within the framework of sustainable development, which had been published in the Official Gazette No. 84 dated 29 December 2004.*

<sup>(26)</sup>- *Law No. 04-20 of 25 December 2004 on the prevention of major risks and disaster management within the framework of sustainable development, published in the Official Gazette No. 84 dated 29 December 2004.*

<sup>(27)</sup>- *Articles 17 and 18 of Law No. 24-04.*

<sup>(28)</sup>- *Article 19 of Law No. 24-04.*

<sup>(29)</sup>- *Article 21 of Law No. 24-04.*

<sup>(30)</sup>- *Article 63 of Law No. 24-04.*

<sup>(31)</sup>- *Article 84 of Law No. 24-04.*

<sup>(32)</sup>- *www.cna.dz*

<sup>(33)</sup>- *Article 85 of Law No. 08-16*

<sup>(34)</sup>- *which has been amended several times by other decisions: Decision No. 278 dated 28/04/2021, Decision No. 410 dated 29/06/2021, Decision No. 853 dated 20/10/2021, and Decision No. 146 dated 14/02/2022. These texts are available on the Ministry's website: [www.madr.gov.dz](http://www.madr.gov.dz)*

<sup>(35)</sup>- *Article 7 of Executive Decree No. 96-63 of 27 January 1996, which defines agricultural activities and sets the conditions and procedures for the recognition of farmer status, published in the Official Gazette No. 7 dated 28 January 1996.*

<sup>(36)</sup>- *Article 4, paragraph 2 of Executive Decree No. 12-251.*

<sup>(37)</sup>- *Article 4, paragraph 2 of Executive Decree No. 12-251.*

<sup>(38)</sup>- *As stipulated in Article 70 of Law No. 08-16 concerning agricultural guidance and the provisions related to compensation, Article 17 and the following articles of*

*Executive Decree No. 12-251 that define the organization and operation of the Agricultural Disaster Guarantee Fund*

*<sup>(39)</sup>- This is distinct from the previously mentioned condition related to benefiting from state support for financing agricultural activities.*

*<sup>(40)</sup>- Under Executive Decree No. 90-158, there were agricultural disaster committees at different levels: a National Committee, a Provincial Committee, and a Municipal Committee.*

*<sup>(41)</sup>- Bearing organization of the Agricultural Disaster Guarantee Fund and its operations.*