

## **Procedures for Establishing Occupational Accidents in Algerian Legislation**

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### **Abstract:**

Occupational accidents are among the organizational problems and the most important threats to the safety and security of human capital in the workplace, and due to the multiplicity and synergy of contributing factors contributing to their occurrence from poor environmental conditions, subjective and psychological factors and social and organizational factors, in addition to their increasing negative effects on the worker from injuries resulting in total or partial disability or death and the financial burden of the organization from the expenses of treatment and insurance. In order to ensure social protection for the injured worker, the Algerian legislator sought to define the legal system of professional incidents from the concept and conditions of the development of means and procedures to prove them in order to ensure the right of the worker to merit his performances and to ensure his security and safety within labour organizations.

**Keywords:** Occupational accidents, injured worker, methods of proof, working relationship, injury.

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## Procedures for Establishing Occupational Accidents in Algerian Legislation

تعتبر الحوادث المهنية من بين المشكلات التنظيمية ومن أهم المخاطر المهددة لسلامة وأمن الرأسمال البشري في مواقع العمل، ونظرا لتعدد وتضافر العوامل المساهمة في وقوعها من ظروف بيئية سيئة وعوامل ذاتية ونفسية وعوامل اجتماعية وتنظيمية، إضافة إلى تزايد آثارها السلبية على العامل من إصابات ينتج عنها عجزا كليا أو جزئيا أو وفاة وتحمل أعباء مالية للمنظمة من مصاريف العلاج والتأمينات. وحتى يكفل المشرع الجزائري الحماية الاجتماعية للعامل المصاب، سعى لتحديد النظام القانوني للحوادث المهنية من مفهوم وشروط وضع الوسائل والإجراءات لإثباتها بما يكفل حق العامل في استحقاق آداءاته وضمن أمنه وسلامته داخل منظمات العمل.

الكلمات المفتاحية: الحوادث المهنية، العامل المصاب، طرق الإثبات، علاقة العمل، الإصابة.

### 1. INTRODUCTION

Occupational accidents have become one of the most serious threats to the health and safety of workers, with the development of technology and the increasing use of mechanization, and in the absence of training and preventive awareness, this has led to the emergence of new forms and patterns of diverse and multiple negative effects, which have affected the worker in particular, the institution and society at large. However, the subject of occupational accidents is one of the topics that has raised social and legal researchers for the legal problems faced by the institution in resolving disputes over compensation received after work injuries, differing jurisprudential and judicial opinions, and concepts to

determine what a work accident under which the injured worker is entitled to the compensation prescribed in the legislation. This highlights the importance and reason for studying occupational accidents by analysis and interpretation by identifying the concept of occupational accidents and the basic conditions of the accident and the procedures for proving it by analyzing the legal texts that protect the injured worker, and therefore the problem of the study is: what is the concept of professional accidents? What are its conditions, and what are the procedures for proving it?

In order to study the phenomenon of occupational accidents, we will address two topics, the first and address the nature of professional accidents, which includes two requirements, namely the concept of professional accidents judicially and legally, and the second requirement to address the conditions to be met in the incident, while the second research contains the requirement of procedures to prove the accident and the requirement of the second methods of proof.

## **2. What are occupational accidents**

The question of determining the legal system of professional incidents is of paramount importance as the officer and the scope of social protection for the injured worker, and the determination of the conditions for social security responsibility for the performance of benefits to those affected. This is why we need to define the concept of occupational accidents in the first requirement, and the conditions to be met in a professional accident in the second requirement.

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### **2.1 the concept of occupational accidents**

The concept of occupational accident did not include an all-encompassing definition by international labour organizations and social security experts at the International Labour Office for the difficulty of defining a comprehensive definition to ensure the protection of the worker who is injured by a work injury, and therefore the definition given by Protocol 155 of 2002 on occupational safety, health and the working environment is that", "Every accident that occurs on or behalf of work, for which fatal or non-fatal injury or non-fatal damage has occurred."<sup>1</sup>

In view of the differing legislation in determining the exact meaning of a professional incident, it was left to the jurisprudence and national jurisdiction of each State<sup>2</sup>.

This is why we need to define the concept of a professional incident by referring to the doctrinal and judicial definition on the one hand and the legislative definition on the other.

#### **2.1.1 the jurisprudential and judicial concept**

**In terms of jurisprudence:** We find in the definition of a professional accident that the Algerian legislator has focused on:

\* It is an accident that occurs during or on the occasion of work, whatever the reason, and in all cases where the worker is subject to the employer as an external cause, it causes bodily harm to the worker's body and occurs suddenly<sup>3</sup>.

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\* This incident arises at a time when the worker is under the management of the employer and is exposed to the accident at the same time as he receives his salary<sup>4</sup>.

\* It is also known as an accident that affects the human body, and is of an external origin and characterized by a measure of surprise, and Explains Mohammed Labib Shanab the accident in terms of the injury resulting from it either by the action or its occasion, and identifies the elements of the injury in:

- Physical damage to the human body externally, internally or superficially, organically or neurologically.
- This damage is the result of a sudden act that does not separate its beginning from the end of a time difference<sup>5</sup>.

\* There are those who consider them to be the dangers to which a person is exposed in the workplace of things and actions, or scars that expose himself, his money and his work to death, disability and fire... ect<sup>6</sup>.

### **In terms of the judiciary:**

The French judiciary has historically been the race in an attempt to put forward a definition of the incident, as such a sudden and violent act resulting from an external cause, which results in the injury to the human body, in which the most obvious elements of the injury are physical damage arising from a sudden and violent external incident, but the latter quickly retreated from the policeman of violence and surprise<sup>7</sup>.

It can be said that jurisprudence and jurisprudence prefer to follow the example of the law, and the incident is known as the meeting of its constituent elements: to have an incident causing loss, to be injured by the work

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on its occasion, and to damage the worker's body, in addition to the existence of a causal association between the accident or injury.

### **2.1.2 legal convention definition**

The French law defined the injury of work in the text of article 04/05 of the Social Security Act of 10/09/1956, amended by a decree issued in 1958: "It is considered as a work injury, whatever the cause of it, an injury caused by the act or on the occasion of work for all and anyone who works in any capacity or place in one or more of the employers or enterprises."<sup>8</sup>

The Algerian legislator addressed a definition of a professional incident in several legal texts, including: Order 66-183 of June 21, 1966, concerning compensation for work accidents and occupational diseases<sup>9</sup>.

Law 83-13 of July 20, 1983 on work accidents and occupational diseases<sup>10</sup>, we find the following legal texts: Article 60: "An accident shall be considered to have been caused by a physical injury caused by a sudden, external and in-action accident."

Article 7: "An accident of work that also occurs while performing outside the institution is considered to be of an exceptional or permanent nature in accordance with the employer's instructions.

The practice or on the occasion of the exercise of political, electoral, or mass organization or regular study outside working hours.

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Article 8: "It is also considered as a work accident, even if the person concerned is not socially insured, the incident during which it occurs:

- The required actions and activities organized by the party, or mass organizations.
- Sports activities organized within the framework of associations.
- Doing an act of righteousness for the common good, or saving a person who is vulnerable to the dead.

The legal definition of an incident may tend to be of a punitive nature, since it has articles and clauses that stipulate its terms and conditions. This is in order to protect the worker from manipulation and evasion of responsibility by the institution. As well as protecting the institution from workers' fraud. The Algerian legislator added an amendment to this law with Order 96-19<sup>11</sup>.

Article 10: It is considered as a work accident, the accident occurring during:

- To carry out the mission of the institution of an exceptional or permanent nature in accordance with the instructions of the user.
- The practice of electoral custody or on the occasion of its practice

- regular study outside working hours. It is noted that the Algerian legislator defines the professional incident as a physical injury resulting from a sudden and external cause, which occurred within the framework of the working relationship, or outside this relationship, and did not address the mental and mental injury that can occur to the worker during the course of his work, especially

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intellectual work, and in accordance with the instructions of the employer, such as the practice of union, electoral or kicking, or in the distance that separates the worker from the workplace. The legislator focused on two basic elements: first, the accident was not expected and did not explain the nature of the sudden and external cause sought during the working relationship. The legislator here is not limited to the scene of the incident, but goes beyond that to the point outside the workplace, provided that he is in the performance of the tasks associated with the work.

### **2.2 the conditions that must be met in the professional accident**

The refore, the number of people who have been displaced by the conflict has increased significantly<sup>12</sup>. The conditions to be met in a professional accident can be derived from the text of Article 06 of Law No. 83-13: the sudden condition of the accident, the condition of its externality, the condition of the existence of the working relationship, the physical condition of the harm to the worker, which will be dealt with in the following branches.

#### **2.2.1 the condition of the suddenness of the accident**

The act of causing damage should be sudden and sudden, i.e. the beginning and end of the act in a short period of time<sup>13</sup>, so that the accident is unexpected and unavoidable even if its harmful effects on the body appear shortly thereafter<sup>14</sup>. The importance of the availability of the requirement of suddenness in both action and injury is reflected in the emergence of the



presumption that the incident is considered to be a construct or a construct of damage, as well as the criterion of suddenity to differentiate between accident and occupational illness<sup>15</sup>.

### **2.2.2 the accident foreign condition**

It is that the cause is alien to the organic composition of the infected worker, and the human body is not the cause of the accident. This incident is attributed to any act or any external physical or moral work, which is not stuck in the biological composition of the injured worker<sup>16</sup>.

The Algerian legislator considered the worker's injuries as a result of the use of the machine to be an accident, and when he suffered a heart attack, he considered it an organic disease, thus denying the status of the accident.

### **2.2.3 the condition of the physical harm caused to the injured worker**

The accident must result in an injury to the worker's body (physical damage), whether it is an internal or external injury, window or superficial, or in the form of wounds, fractures, neurological dysfunction or organ loss, which is important to be physical damage and not moral damage, as it does not require that the harm to the human body has physical friction, the effect includes human health in a broad sense, whether physical or neurological<sup>17</sup>.

While the moral, financial and moral damage to his reputation or honour is not professional, it can be

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compensated in accordance with the rules of default liability in civil law<sup>18</sup>.

### **2.2. 4 the condition of a working relationship**

Article 06 of Law 83-13 provides for an incident that occurred within the framework of the working relationship, which carries with it a set of conditions for being considered an accident, namely, the organic association with work, the incident at work at any time and the workplace, and the event on the occasion of or because of work.

**First: organic link with work:** The refore, the worker is a dependent in the performance of his or her work with the employer, but this dependency takes several forms, namely: <sup>19</sup>

**Legal dependency:** It is a legal bond based on a legal position, the source of which is the contract concluded between the worker and the employer, and this is what Article 08 of Law 90-11 relating to labor relations stipulates<sup>20</sup>, that: "The work relationship is established by a written or non-written contract and is based in any case Just by working for an employee ... ", when Article 09 of the aforementioned law stipulates: " The work contract shall be made according to the forms agreed upon by the contracting parties"<sup>21</sup>, which is stipulated in article 10 of the same law, regardless of the duration of the contract, whether fixed or indefinite. <sup>22</sup>

**Economic dependency:** it is reflected in the wages paid by the worker for his work, which is considered by the employer's legal obligations and is based on two elements: that the income generated by work is the

source of livelihood for the person who does the work, and secondly, the worker provides all his activity to the employer and the latter is obliged to provide him with regular and stable work<sup>23</sup>.

**-Technical dependency:** by imposing the establishment of systems and methods of monitoring and field follow-up of employees in accordance with the programs specified by the employer, which require the latter to be familiar with the technical assets of the work<sup>24</sup>.

**Secondly: the incident occurred at work or on its occasion:** it is not enough to have an organic association with the work to disprove the professional nature of the incident, but the incident must occur during the work or on its occasion<sup>25</sup>. The incident occurred at the workplace and its specified hours, as the incident was merely a presumption of causality between the incident and the work, which was taken into view by the French judiciary, as the professional incident was considered to be every incident occurring at the time and place of work<sup>26</sup>.

**Temporal association with work:** that the accident occurs at the time when the worker performs his duties and performs the work assigned to him, and that he is under the supervision of the employer<sup>27</sup>, the temporal link is only a temporal correlation between work and accident regardless of whether the time of work is legal or actual<sup>28</sup>.

**Spatial association with work:** the occurrence of an accident in the workplace, where the worker is present to perform and carry out the work assigned to him, and is subject to the authority of the employer, and includes the

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workplace and its accessories, which is the place of work always, temporarily, casually or seasonally<sup>29</sup>.

Article 09 of Act 83.13 on occupational accidents and occupational diseases states: "The injury or death that occurs in the workplace or its duration, or far from the circumstances of the accident or during post-accident treatment, must be considered to be the result of work unless proven otherwise."<sup>30</sup>

In our view, the Algerian legislator did not make the temporal and spatial interdependence of work two conditions that go hand in hand to prove the professional incident, but merely the availability of one presumption of the availability of the other.

### **3. procedures for proving the occupational accident**

Occupational accident compensation processes are subject to a set of procedures relating to the process of declaring the case of the person, and how to prove the professional accident to enable the social security agencies to exercise their control and to ascertain their professional nature and the health status of the insured.

#### **3.1 procedures for proving the occupational accident**

The professional accident (physical accident) is established on the basis of general rules by all means and methods of proof, and this is based on the professional nature of the incident, as the Algerian legislator referred to in Law 83-13 concerning work accidents and occupational diseases to examine the professional accident and broadcast in its professional nature, by addressing the mandatory ity of authorized declaration of the incident, whether the injured worker, the employer or

the Social Security Authority, then the examination of the file, and finally the examination of the injuries.

### **3.1.1 mandatory professional accident declaration**

The Algerian legislator has specified the actions to be taken in the event of a professional accident in the text of Article 13 of Law 83-13: "A professional incident must be authorized by:

- The injured person or his behalf to the employer within 24 hours except in compelling cases and the holidays are not counted.
- The employer, as of the date of receipt of the news of the incident on his knowledge, to the Social Security Authority within 48 hours.
- The Social Security Authority immediately supervises the work inspectors supervising the institution or the employee exercising its powers under special legislation<sup>31</sup>.

Accordingly, the article emphasized the possibility of authorization by several insurers or the employer of the first social security authority.

#### **First: The declaration of the work accident by the insured (the injured worker) or his representative**

The injured person or his or her person must declare a professional accident within 24 hours, except in the case of Cairo, thereby excluding cases where the permit is not authorized, such as an earthquake or a serious condition in the hospital, in addition to weekly or religious holidays. The law thus granted the injured worker the first initiative to authorize the incident to the employer, who is subject to his authority within 24 hours

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of the date of the incident, the latter of whom is authorized to report the incident to the Social Security Authority<sup>32</sup>.

The permit is usually verbal from the injured person to the employer, but in exceptional cases where the incident occurs outside the workplace, the permit process is either written notice or with an in-patient letter of arrival<sup>33</sup>.

### **Second: Authorization of the accident by the employer**

Article 13 in paragraph 2 of Act 83-13 states that the employer must authorize the incident to the Social Security Authority within 48 hours from the date of the news of the incident to his knowledge without counting the holidays, even if the accident does not result in any disability, as long as the disability may appear long after the date of the incident<sup>34</sup>, as confirmed by the text of Article 15 of Law No. 83-13 by saying "The employer must not be allowed to take initiative even if the accident is not caused by a lack of work"<sup>35</sup>, and the refore the legislator gave the employer permission to do so, even if the injury was merely bruises and superficial wounds.

In the event that the employer does not authorize a professional accident within the specified time limits, the legislator authorizes the injured person, the rights holder, the trade union organization or the Labour Inspectorate to carry out the permit within a period of 40 years from the day of the incident, as is found in article 14 of law 83-13 concerning work accidents and occupational diseases. However, the provision of article 13 of the same law

imposed a fine imposed by the Social Security Authority on the employer, estimated at 20% of the wage sought by the injured every three months for not authorizing a professional accident<sup>36</sup>. This is included in article 26 of Law No. 83.14 on the obligations of social security taxpayers.

Decree No. 84-28 also arranged in Article 09, the first paragraph of 11 February 1984, which sets out how to apply the third, fourth and eighth titles of Law 83-13 to the employer's obligation to hand over the accident paper to the injured person or his representatives, which is mentioned in article 14 of Law 83-13, which includes the appointment of the social security body charged with paying the performances. However, if the employer fails to deliver the accident paper to the worker, the Social Security Authority can hand it over to the insured who has been injured in the accident<sup>37</sup>.

### **Third: Authorization of the accident by the Social Security Authority**

The Social Security Authority must immediately authorize the work accident with the labour inspector supervising the institution or the employee exercising its authority under special legislation, as stipulated in Article 13, third paragraph of Law 83-13<sup>38</sup>. This will be confirmed by the Supreme Court's decision of 15 February 2000: "But since it appears in the review of the documents of the case and the appeals of the contested decision that it rightly considered that the appellant respects the requirements of Articles 13-14-15 of Law 38 15. Concerning the necessity of authorizing the work

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accident by the worker or his representatives within 24 hours, then the Social Security Authority to the labour inspector and as long as this procedure is obligatory, the appellant must respect that, and the board that based its decision on not authorizing the incident. proper legal, and therefore to say the misapplication of the law is misplaced."<sup>39</sup>

If the professional incident occurs during the course, the administrative or judicial authority must send a copy of the record it prepares to the Social Security Authority in a period that should not exceed 10 days, and a copy of the record must be handed over to the injured person, or those with rights, or the trade union organization concerned if requested, as confirmed by Article 20 of Law No. 83-13<sup>40</sup>.

Furthermore, article 21 of Law 83-13 states: "When an incident involves the criminal liability of the person who caused it, the Social Security Authority obtains from the prosecutor or the judge in charge of the file the receipt of documents for the ongoing proceedings."<sup>41</sup>

### **3.1.2 the separation of the professional character**

After the authorization of the professional incident comes the stage of consideration of the file relating to the incident, as stipulated in Article 16 of Law 83-13: "When the Social Security Authority has the elements of the file, particularly the statement of the incident, it must broadcast in the professional nature of the incident within 20 days."<sup>42</sup>

To determine the professional nature, the Social Security Authority takes several measures:



**1- Broadcast times in the professional nature of the incident by the Social Security Authority:** the Social Security Authority examines the file of the injured person by broadcasting in the professional nature of the incident, and may adapt the situation within the inductions and this shall be done within a period of 20 days.

**2. The Social Security Authority's objection to the professional nature** of the incident can be challenged by a decision by its parties that includes rejection, based on what was circulated by its Occupational Accident and Occupational Diseases Commission, as stipulated in article 17 of Law No. 83-13, which states: "If the Social Security Authority objects to the professional nature of the incident, it must feel the injured..."

When objecting, the Social Security Authority carries out several measures, such as:

- The injured person (worker) or those with rights must feel its decision within 20 days, as of the date of the news of the incident to her knowledge, as stipulated in article 17/1 of Law 83-13.

- The Social Security Authority provides performances to the injured worker as a precaution: in order to give performances to the worker if she does not notify the injured person or those with his rights by means of a letter recommended with the request for notice of receipt, all in consideration of the social situation of the injured worker<sup>43</sup>.

- In the event that the Authority does not object within 20 days to prove the professional nature of the incident, as stipulated in article 17/3 of Law 83-13: "The Social

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Security Authority has not issued the objection provided in the first paragraph of the article, the professional nature of the incident is fixed on its part."<sup>44</sup>

### **3.1.3 investigation and examination of injuries**

In order to enable the Social Security Authority to investigate and investigate the extent to which the incident is considered professional or non-professional, and to know the extent of its consequences, the injuries need to be examined, which will be addressed.

#### **First: Investigation into the occupational accident:**

The law also requires the employer to provide her with all necessary assistance to enable her officers to conduct the investigation in the fullest.

The legislator granted the Social Security Authority the capacity to conduct an administrative investigation within the institution in which the accident occurred during its examination of the file, in order to determine its professional character, and the law also required the employer to provide it with all necessary assistance to enable its agents to conduct the investigation fully<sup>45</sup>, according to Article 19 of Law 13-83 states that: "The Social Security Authority is entitled to conduct, in order to study the file, an administrative investigation within the institution that uses the injured in order to determine the professional character of the accident in particular."

The second of the same article stated: "The employer must provide all necessary assistance to the officers in charge of this investigation."

The administrative investigation by the Occupational Accident and Occupational Diseases

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Commission<sup>46</sup> of the Social Security Fund for Wage Workers aims to:

- Knowing the cause and type of accident and the circumstances in which it occurred, the probable presence of a deliberate or unexcused error by the employer or the injured worker, in addition to the possible presence of the error of others.

- The existence of rights holders or not, and whether previous work accidents and the resulting consequences.

This investigation is not a necessary procedure for all authorized incidents<sup>47</sup>. The procedures for the investigation are:

- The assistant in charge of the investigation summons the injured person or those with rights, witnesses and his employer or representatives to receive his statements.

- Proof of all information in the record (investigation report) and referral to the Occupational Accident and Diseases Committee of the Social Security Fund, with notification of the injured person and the employer to see the report directly or through an agent.

- The social security authority's decision through the results of the investigation from the Occupational Accident and Occupational Diseases Commission is either rejected or the performance suppling of the injured (performances of temporary or permanent partial disability) <sup>48</sup>.

When the incident involves the criminal liability of the person who caused it, the Social Security Authority receives from the prosecution or the judge in charge of

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the file to hand over the documents for the ongoing proceedings<sup>49</sup>.

### **Second: Inspecting the injuries**

It is important to adapt the professional incident in terms of its effects resulting from the disability and deterioration of the health of the injured worker, which helps to examine the injuries, which must be done by the doctor chosen by the injured person, and requires him to edit two certificates at the first examination<sup>50</sup>:

**The first** is the first medical examination following the accident, which is a status certificate of the accident in which the surgical or pathological source of the injury is identified<sup>51</sup>, in which the condition of the injured person and the possible duration of the temporary disability are described.

**The second:** Certificate of healing: This is if the accident does not leave a permanent disability or a certificate of reparation if the accident leaves a disability, and this is stipulated in article 22 of law 83-13.

When this testimony recognizes either the recovery or the final consequences of the accident in the event that it was examined before that, and the date of reparation is specified in it when necessary, the condition of the injured is described after this reparation, and the percentage of disability is determined in it, and this is what Article 24 of Law No. 83 -13.

The committee sought to establish a new government in the area of human rights, and the government had to take action to address the issue of the rights of the person. The latter has to call the injured

person and undergo a second examination to make sure that the certificates match the condition of the injured person, and this is what is being done in the social security agencies. and this is stipulated in article 25 of law 83-13.<sup>52</sup>

It is clear from the above that the Algerian legislator has adjusted the provisions on the conditions, conditions and procedures that the injured employer or social security agencies must observe when they have an employment accident in order to protect the rights of each of the parties, and have even approved guarantees of administrative and judicial procedures to resolve these disputes<sup>53</sup>.

### **3.2 proof of work accident:**

Professional accidents are established on the basis of the general rules of evidence, so that a professional incident is a material fact that is proven by all means of proof<sup>54</sup>, and is particularly focused on the general or specific conditions of a professional accident.

It should be noted that the French Court of Cassation refused to prove the incident merely by the victim's statements, how it ruled that medical testimony was insufficient, obliged the judges to take witness testimony as well as to obtain evidence when it was strong<sup>55</sup>, and article 09 of Law 83-13 contained a set of evidence inferring the professional nature of the incident. The professional character assumes the availability of one of these evidence, thereby carrying the burden of proving the lack of professionalism of the incident to the defendant. This evidence is: the injury or death occurs in

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the place and time of work, and far from the circumstances of the accident, but the use of this presumption should not be overused, but it should be considered for an acceptable period of time, and should occur during post-accident treatment.

However, this article makes this evidence simple and can be proved to be counterproductive. When article 11 of Act 83.13, this presumption could be legally refuted if the injured person refused to perform an autopsy by the Social Security Authority, unless they established a causal relationship between the accident and death<sup>56</sup>.

The judge's jurisprudence has recognized the power to rely on the various evidence of reality to prove the professional incident, which has full authority to assess the implications of the facts. It must be emphasized that the professional character of the incident cannot be denied, even if it is due to force majeure, even if the work does not cause it. In the case of an accident on the occasion of the work, a causal relationship must be established between the accident and the work, and the burden of proof rests with the worker<sup>57</sup>.

### **4.CONCLUSION:**

The phenomenon of occupational accidents is one of the topics that received wide attention from the researchers due to the increasing percentage of occupational injuries despite the measures and measures taken to reduce their occurrence due to the complexity and complexity of the causing factors due to the failure of workers to follow the directives of the employer and

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the absence of Preventive, organizational or physical culture belongs to employers such as the failure to provide an appropriate, healthy and safe work environment for workers to enable them to perform their duties in the best way and to avoid injuries caused by occupational accidents and to mitigate their negative effects such as disability, death and material losses in Insurance and treatment compensation.

The legislator has developed a special legal system aimed at expanding the field of beneficiaries of professional accidents with the aim of ensuring full and comprehensive security for a number of persons and groups by defining the concept of incidents, whether in its broad or narrow sense, and establishing standards and conditions for professional incidents included in the texts issued in the Law No. 83-13 on work accidents and occupational diseases, in order to ensure adequate social security for believers who in some cases encounter social risks by referring to procedures and methods of establishing the professional status of the accident by the worker in the event of an accident Work during or on the occasion of work, so that the believer has the right to compensate for all injuries. Through our study, we draw the following:

- The Algerian legislator granted short periods of time to declare a professional accident, and gave the injured worker the possibilities to appeal against the decisions of the Social Security Commission before the committees eligible for pre-appeal (internal settlement), in order to protect the right of the insured to recover his right from

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abuse. In the short period of time to avoid resorting to the judiciary defined by the length of the litigation procedures and the high cost and judicial knowledge, the legislator therefore protects the insured directly from resorting to the judiciary if it is made as a solution in the event of failure of the insured. He has the right to be fulfilled before the internal committees that are eligible for prior appeal.

Therefore, we propose the points to be reviewed and taken by the Algerian legislator:

- Very strict measures must be taken against employers if they are not careful or not to pay sufficient attention to the availability of a proper and suitable environment for work, as well as all means of protection and security from occupational accidents, and the environment used must identify workers with the dangers of machinery, and how to use them, as well as requiring workers to wear protective equipment.
- The Social Security Agency is required to conduct medical monitoring through a limited medical procedure, i.e. it should not be subordinate to it, in addition to the use of the consultant doctor more than one doctor to confirm the opinion of the first counsel doctor before resorting to the judiciary, so that the insured has the right to be entitled.
- The dispute in occupational accidents is not justified by the mere negotiation of administrative settlement, so as not to waste the rights of the insured, and to establish clear laws to ensure the independence of the national committees qualified to challenge the social security



environment either in the completion of their tasks or in the case of their activity.

In the end, it can be said that the legislator has succeeded relatively in giving a legal system to prove professional accidents, and that the prevention of the latter is only a set of means and procedures that remain the most appropriate and optimal way to maintain the health and safety of workers.

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**8** - Dahmani Manal, Legal Protection from Work Accidents and Occupational Diseases in Algerian Law, Work submitted for a PhD thesis degree in Social Law, Department of Law, Mouloud Mammari University, Tizi Ouzou, 2019, p: 19.

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- 19-** Ahmia Slimane, The Legal Regulation of the Labor Relationship in Algerian Legislation, National Bureau of University Publications, Algeria, 2002, p: 15.
- 20** - Law No. 90-11 of April 21, 1990, relating to labor relations, the Official Gazette of the People's Democratic Republic of Algeria No. 17, issued on April 25, 1990.
- 21-** Tukuk Cherifa, Work Accidents in the Algerian Social Security Legislation, Al-Baheth Journal for Academic Studies, Issue 10, Volume 04, 2017, El Hadj Lakhdar University, Batna 1, Algeria, p: 205.
- 22-** Smmati Al-Tayeb, previous reference, p: 21.
- 23-** Ben Azzouz Ben Saber, Al Wajeez in Explaining the Algerian Labor Law, Khaldounia House for Publishing and Distribution, Algeria, 2010, p: 52.
- 24-** Tukuk Cherifa, previous reference, p:206.
- 25-** Rami Nahid Salah, previous reference, p:30.
- 26-** Zanati Noura, Work Accident Insurance in Algerian Legislation, Work submitted for a Master's Degree in Corporate Law, University of Algiers, 2014-2015, p: 17
- 27-** Smmati Al-Tayeb, previous reference, p: 23-24
- 28- Actual work time:** It is the time during which the worker is present to implement the contract under the authority, supervision, control and direction of the employer, directly or indirectly.
- 29-** Zanati Noura, previous reference, p:18.

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- 31-** Mouloud Didan, the social blog, Dar Belqis, Dar Al Baida, Algeria, 2008, p: 103.
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- 33-**Tayeb Belloula, compensation for industrial accidents and occupational diseases, edition dahleb, sourya, 1993, p: 90.
- 34-** Bensari Yassin, Social Security Disputes in the Algerian Legislation, Dar Houma, 2004, p: 50.
- 35-** Smmati Al-Tayeb, previous reference, p:49.
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- 40** - Ahmia Slimane, Mechanisms for Settlement of Labor Disputes and Social Security in Algerian Law, ed. 4, University Press Office, Algeria, 2005, p: 183.
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**45-** Ahmia Slimane, Mechanisms for Settlement of Labor Disputes and Social Security in Algerian Law, previous reference, p:184.

**46-** Work Accidents and Occupational Diseases Committee: It is a committee consisting of the deputy director of the acting performance as a chairperson appointed by the agency director, and from the head of the work accidents and occupational diseases department a member who has the task of the secretary of the committee, and from the proxy physician as a member, and from the prevention and security observer as a member. Accident files after carrying out the necessary investigations. See: Smmati Al-Tayeb, previous reference, p:58.

**47-** Tayeb Belloula, previous reference, p:92.

**48-** Smmati Al-Tayeb, previous reference, p:57.

**49-** Mubaraki Miloud, Insurance on Work Accidents and Occupational Diseases, Annals, Bashar University, Issue 06, a special issue of the International Forum on Insurance Systems, 2009, p: 77.

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**51-** Mubaraki Miloud, previous reference, p:78.

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**52-** Bensari Yassin, previous reference, p:52.

**53-** Ahmia Slimane, Mechanisms for Settlement of Labor Disputes and Social Security in Algerian Law, previous reference, p:185.

**54-** See Rules of Evidence, Articles 323 to 350 of the Algerian Civil Code.

**55-** Amrani Abdelkader, previous reference, p:15.

**56-** Smmati Al-Tayeb, previous reference, p:62.

**57-** Tahtah Allal, previous reference, p:16-17.

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14- Boukhrouba Asma, Work accidents and occupational diseases according to Algerian legislation, Journal of Studies on Algeria and the World, Issue 05, Volume 02, 2017, Algeria.

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### **Notes**

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