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Protecting the Contractual Autonomy of the Electronic Consumer through the Pre-Contractual Duty of Disclosure and the Right of Withdrawal

حماية الإرادة التعاقدية للمستهلك الالكتروني بين الالتزام بالإعلام وحق العدول

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Abstract :
Consumers often enter into contracts for goods or services for personal use, without intending to profit. However, lacking technical expertise or sufficient knowledge, especially in the electronic environment where direct inspection is impossible, they are exposed to exploitation due to the imbalance of power with professionals. This vulnerability makes it essential to provide legal mechanisms that safeguard the consumer's rights and ensure fairness in contractual relationships. To protect consumer consent, the law grants rights such as the right to be informed, ensuring decisions are made knowingly, and the right of withdrawal, allowing consumers to retract their contracts within a set period. These safeguards are particularly crucial in online transactions, where persuasive advertising and exaggerated marketing may misrepresent goods or services, leading to hasty decisions, mistakes, and potential regret. Overall, these measures aim to restore balance and protect the integrity of the consumer's contractual will.
Keywords: Electronic contract, consumer protection, duty to inform, right of withdrawal, reflection period.

ملخص:
يبرم المستهلك غالبًا عقودا تتعلق بالحصول على سلع أو خدمات بقصد الانتفاع الشخصي، دون نية لتحقيق الربح أو المضاربة. غير أنه كثيرًا ما يبرم هذه العقود دون توفر الخبرة الفنية أو الدراية الكافية لتقييم محل التعاقد تقييمًا سليمًا، ولا سيما في البيئة الإلكترونية التي تنتفي فيها المعاينة المادية المباشرة، مما يجعله عرضة للغبن أو الاستغلال نظرًا لعدم تكافؤ المراكز بينه وبين المهني الذي يتمتع بخبرة واحترافية متقدمة.
وانطلاقا من حرص المشرع على حماية إرادة المستهلك وضمان سلامتها، أقر له مجموعة من الحقوق عند إبرام العقد الإلكتروني، وفي مقدمتها الحق في الإعلام الذي أحاطه بضمانات قانونية مهمة لدوره في تمكين المستهلك من اتخاذ قرار واعٍ ومستند إلى معلومات دقيقة. كما كفل له حق العدول عن التعاقد كآلية تصحيحية تتيح له التراجع عن قراره خلال مدة محددة، لا سيما في ظل الدعاية والإغراء المبالغ فيه التي غالبًا ما تصاحب عرض السلع والخدمات على شبكة الإنترنت، مما قد يدفع المستهلك إلى التسرع في التعاقد دون تمهل، فيقع في أخطاء تؤدي إلى الندم والرغبة في الرجوع.
كلمات مفتاحية: العقد الالكتروني، المستهلك، الحق في الاعلام، حق الرجوع، مهلة التفكير والتروي.

Introduction:

The concept of providing specific legal protection for consumers is relatively recent. Traditionally, consumers were only covered by general legal protections under civil or criminal law. However, the economic developments of the late 19th and early 20th centuries -most notably the 1929 economic crisis- prompted the emergence of the idea of consumer protection. As economies evolved, instances of abuse and harm to consumers became increasingly apparent, particularly due to the distribution of goods and services in an unregulated and poorly supervised manner, often of uncertain quality and unknown origin. This highlighted the necessity of establishing a legal framework that would offer consumers protection similar to that provided by general civil and criminal law.

Consumer protection seeks primarily to safeguard the health and safety of individuals in a marketplace characterized by a growing variety of goods and services. Contracts, as legal tools, organize relationships between parties by defining their respective rights and obligations[1]. In response to technological advances, new forms of contracts have emerged, notably electronic contracts. These are agreements in which a seller undertakes, remotely, to transfer ownership of a good or a financial right to a buyer in exchange for payment, facilitated through the Internet.[2]

American legal scholars have defined electronic contracts more precisely as agreements resulting from the exchange of electronic messages between a seller and a buyer, which create binding contractual obligations. The Algerian legislator has adopted this type of contract in Article 6, paragraph 2, of Law No. 18-05 on Electronic Commerce[3], which states: *«Electronic commerce is the activity carried out by an electronic supplier offering or guaranteeing the provision of goods and services remotely to an electronic consumer through electronic communications».* This provision demonstrates that Algerian law does not restrict the electronic means by which a contract may be concluded but instead includes all possible electronic channels. Furthermore, according to paragraph 1 of the same article, the subject matter of electronic contracts encompasses goods and services, and their application is not limited to merchants; it extends to any consumer, whether a natural or legal person[4].

Consumers, however, often enter into such contracts without sufficient technical expertise or the ability to examine the goods or services directly[5]. This creates an imbalance, as the other party - typically a professional- possesses greater knowledge and experience, potentially placing consumers at a disadvantage.

To address this asymmetry and protect consumer interests, legislators have guaranteed a set of rights for consumers engaging in electronic contracts, most importantly the right to information and the right to withdraw from a contract, commonly referred to as a « cooling-off period »[6]. These protections are necessary because online goods and services may not provide consumers with sufficient information to make informed and deliberate decisions. Marketing strategies often exaggerate the qualities of products or services, which can prompt hasty contracting, leading to errors, regret, and the desire to withdraw[7].

This study seeks to answer the following question: What does the consumer's right to information entail, and to what extent does the right to withdraw from a contract serve as an effective mechanism to protect this right?

To address this issue, the study is structured into two sections: the first examines the consumer's right to information, while the second explores the safeguard of the consumer's right to withdraw from electronic contracts as a consequence of breaches of the duty to provide information.

Section One: The Guarantee of Consumer Information

The obligation to inform the consumer constitutes one of the most significant legal safeguards established by the legislator to protect the weaker party in the contractual relationship. This obligation aims to enable the consumer to form a conscious and well-informed consent prior to the conclusion of the contract, particularly in light of the increasing complexity of transactions and the growing informational imbalance between the consumer and the professional. From this perspective, the

Algerian legislator has enacted specific rules to regulate this guarantee, with the objective of ensuring transparency and curbing misleading commercial practices.

Subsection One: The Concept of the Obligation to Inform the Consumer

Examining the obligation to inform the consumer requires, as a preliminary step, an analysis of its conceptual framework, including the identification of its parties, content, and scope, insofar as it constitutes a pre-contractual obligation closely linked to the protection of contractual consent. A proper understanding of this obligation cannot be achieved without first defining the concept of the consumer itself, as the primary beneficiary of the legal protection afforded in this context.

Sub-subsection One: The Content of the Obligation to Inform the Consumer

Before addressing the content of the obligation to inform the consumer, it is necessary to first define the concept of the consumer. Definitions of the consumer have varied across economic[8], professional[9], and doctrinal[10], perspectives; however, this study focuses on the legal definition adopted by Algerian legislation. Law n 09-03 of 25 February 2009 on Consumer Protection and the Suppression of Fraud[11], as amended and supplemented by Law n 18-09 of 10 July 2018provides [12] in Article 3 (1) a statutory definition of the consumer, defining him as: « Any natural or legal person who acquires, whether for consideration or free of charge, a good or a service intended for final use in order to satisfy his personal needs or the needs of another person or an animal under his care».

By adopting this definition, the Algerian legislator departed from the approach taken by most legislations, which have generally left the task of defining the consumer to legal doctrine and judicial interpretation. It can be observed from this definition that the legislator did not impose any specific form for the establishment of the consumer relationship; rather, it arises merely from the acquisition of a product or service offered for consumption by the consumer[13].

The Algerian legislator expressly provided for the obligation to inform the consumer in Law n 09-03 on Consumer Protection and the Suppression of Fraud. This obligation is addressed in Chapter Two, devoted to consumer protection, specifically in Chapter Five, which establishes the mandatory nature of consumer information. Article 17 stipulates that: « Every operator shall inform the consumer of all information relating to the product placed on the market for consumption, through labeling, markings, or by any other appropriate means, the conditions and modalities for the implementation of this article being determined by regulation[14] ».

Furthermore, Article 18 of the same law provides that: « Labeling information, instructions for use, user manuals, product warranty conditions, and any other information provided for under the applicable regulations shall be drafted primarily in the Arabic language. Additionally, one or more other languages that are easily understood by consumers may be used, provided that the information is visible, legible, and indelible ».

From this provision, it is evident that the Algerian legislator did not merely prohibit electronic operators from misleading consumers -whether by omission or otherwise- but went further by imposing an obligation on sellers to provide consumers with all information relating to the product. This is intended to ensure the formation of valid and informed consent, free from any defect affecting consent, thereby protecting the weaker party in the consumer contract. In this context, the legislator also expressly required the inclusion, where applicable, of withdrawal periods, as provided for in paragraph 13 of Article 11 of Chapter Three on requirements relating to commercial transactions conducted through electronic communication, under Law n 18-05[15].

With regard to determining the content of this obligation, some scholars argue that it essentially encompasses both the material and legal status of the goods sold. This requires providing the consumer with all information relating to the physical condition of the product (its components and characteristics) as well as its legal status (registration, authorization, or licensing). Such information enables the consumer to understand the nature, quality, and intended purpose of the product. The Algerian legislator has placed particular emphasis on consumer protection through information, further elaborating this obligation within the framework of civil law, which requires that the buyer be sufficiently informed of the object of sale by clearly specifying the subject matter and its essential characteristics.

To ensure effective protection, Article 18 of Law n 09-03 reiterates the requirement that consumer information tools—such as labeling, instructions for use, warranty conditions, and user manuals—along with all related information, must primarily be in Arabic, visible, legible, and indelible. Moreover, the legislator addressed in several provisions the obligation of electronic operators to inform consumers of all relevant information, including their right of withdrawal and essential product information, and attached legal sanctions to any breach resulting from the failure to fulfill the obligation to inform the consumer[16].

The Algerian legislator has enshrined the right to information both in the Civil Code, as a contractual obligation, and in specific consumer protection laws, as a statutory obligation, notably through:

- Article 352-1 of the Civil Code;
- Law n 09-03 on Consumer Protection and the Suppression of Fraud, as amended, particularly Article 17;
- Executive Decree n 90-366 of 10 November 1990 concerning the labeling and presentation of non-food household products[17].
- Executive Decree n 90-367 of 10 November 1990 concerning the labeling and presentation of food products[18].
- Executive Decree n. 05-484 of 22 December 2005 amending and supplementing Executive Decree n 90-367 relating to the labeling of food products[19].

Sub-subsection Two: The Meaning of Consumer Information and Its Characteristics

Some scholars have defined the obligation to inform the consumer as:

«A legal duty imposed on the obligor to provide the contracting party with all information related to the subject matter of the contract, sufficient to enlighten their consent and facilitate the performance of the contract».[20]

Another doctrinal perspective describes it as:

« A legal obligation incumbent upon providers of goods and services, requiring them to present all necessary data and information relevant to the other party, or the consumer».[21]

Yet another definition emphasizes its pre-contractual nature:

«A general legal obligation, existing prior to the contract, whereby the obligor—whether a party to the contract or a third party—is required, under certain circumstances, to provide the obligee with accurate and truthful information concerning all essential matters related to the contract, which the obligee cannot ascertain by their own means, so that they may form their consent to the contract accordingly».[22]

In addition, some French doctrinal perspectives have defined it as:

Par l'obligation de renseignement ou d'information, le contractant prévient son contractant des risque et avantage de telle mesure ou de tel acte envisage. IL l'éclaire, par des renseignements et des avertissements, afin que son choix soit effectué en pleine connaissance de couse. Mais l'a s'arrête son devoir: il n'a pas, en principe, à prendre parti, à favoriser l'adoption d'une solution plutôt qu'une autre23.

Before the obligation can operate effectively, two essential conditions must be met[24]:

1. The consumer's ignorance: The consumer must lack knowledge of the contractual information necessary to form a free and informed consent. Ignorance constitutes a source of vulnerability.
2. The provider's expertise: The obligor must be sufficiently specialized to know the relevant information, which must be significant enough to affect the consumer's decision to contract or not.

The consumer's right to information has two complementary aspects25:

1. Positive aspect: The professional must provide the consumer with all information necessary to make an informed contracting decision.
2. Negative aspect: The information provided must be free from deception, ambiguity, or misleading content.

French legal scholars argue that the obligation to inform should include three elements[26]:

1. Disclosure of characteristics or distinctive qualities of the goods or services, which may motivate the consumer to contract.
2. Disclosure of price and sales conditions, particularly those related to the consumer's contractual responsibilities.
3. Disclosure of mandatory information required under certain contracts.

However, the obligation only fulfills its purpose if the consumer can understand the technical characteristics provided, especially if the information is highly technical or includes scientific terminology beyond the consumer's comprehension[27].

In general, electronic operators must provide essential information and guidance to ensure the consumer is fully and comprehensively informed, thereby guaranteeing that their consent at the time of purchase is genuinely free.

The obligation to provide pre-contractual information is characterized by several features: in terms of scope, it is characterized by generality; in terms of purpose, it is characterized by preventiveness; and in terms of origin, it is characterized by independence[28], as follows:

1. In terms of **scope**, it is general and applies to all contracts, not limited to a specific agreement.
2. In terms of **purpose**, it is preventive, aiming to protect future contracts from nullity or invalidity by ensuring informed consent.
3. In terms of **origin**, it is independent, as recognized by French jurisprudence, and seeks to address the knowledge imbalance between the producer and the consumer, thereby promoting fairness in the pre-contractual phase[29] .

Sub-subsection Three: The Scope of the Obligation to Inform

Defining the scope of the obligation to inform constitutes a fundamental issue for understanding the extent of legal protection afforded to the consumer. This obligation is not limited to a theoretical determination of its content; rather, it requires identifying its practical boundaries, both in terms of the subject matter of the information to be provided and the persons bound by, and benefiting from, such information. Accordingly, the study of the scope of the obligation to inform necessitates a distinction between its scope with regard to subject matter and its scope with regard to persons, in order to delineate the precise legal framework governing its application.

First: The Scope of the Obligation to Inform with Regard to Subject Matter

The scope of the obligation to inform, from a subject-matter perspective, concerns the identification of the products and services in respect of which this obligation arises.

1. Limits of the Obligation to Inform with Regard to Objects

There is no doubt that the obligation to inform the consumer regarding the object of sale extends to all types of goods, whether movable or immovable. Movable goods may be tangible or intangible, simple or complex, ordinary or hazardous, commonly used or newly developed. Examples include food products, electrical appliances, cosmetics, toys[30], and many others, the enumeration of which is by no means exhaustive. Notably, the obligation to inform becomes more pressing when the object of the contract involves hazardous goods or products characterized by novelty or technological innovation.

2. Content of the Information

The information that must be provided to the obligee in relation to products may be categorized as follows:

a. **Information relating to the legal status of the product** This requires informing the consumer of any legal encumbrances, restrictions, or burdens affecting the product, as well as any obstacles that may hinder or limit its intended use. Such information enables the consumer to assess the feasibility of benefiting from the product as expected[31].

b. **Information relating to the physical condition of the product** Prior to the conclusion of the contract, the obligor must disclose all relevant information concerning the physical characteristics and essential features of the product, including its identity, price, terms of sale, and instructions for use[32]. This disclosure allows the consumer to evaluate the advantages of the contract, its intrinsic characteristics, and its suitability for satisfying the intended needs, which is of paramount importance in influencing the consumer's decision to enter into the contractual relationship.

Second: The Scope of the Obligation to Inform with Regard to Persons

Determining the scope of the obligation to inform also requires identifying the party upon whom the duty to disclose information rests, as well as the party entitled to benefit from such information.

1. The Party Bound by the Obligation to Inform

The primary party bound by the obligation to inform is the producer, followed by the specialized seller and, finally, the non-specialized seller.

a. The producer-seller

The producer occupies a central position among those bound by the obligation to inform, given the breadth and depth of information available to them concerning the goods they manufacture[33]. It is presumed that the producer possesses comprehensive knowledge of the product, including its components, characteristics, methods of use, potential risks, and the means of avoiding such risks. Moreover, the producer has adequate means to communicate this information effectively to the consumer[34].

b. The specialized non-producer seller

A seller acquires the status of a specialized seller when their commercial activity is devoted to the sale of a particular product or a limited range of products serving a specific purpose. Such specialization implies possession of accurate and useful information regarding the goods sold, including their characteristics, composition, and potential risks. Consequently, the specialized seller is required to transmit this information to the consumer in order to prevent harm and ensure optimal use of the product. Furthermore, the specialized seller may be required to compensate for any shortcomings in the producer's fulfillment of the obligation to inform[35].

c. The non-specialized seller

The non-specialized seller, often referred to as the occasional or general seller, offers a variety of products intended for diverse uses. Although such a seller may lack detailed technical knowledge of the products sold, their obligation is grounded in honesty, good faith, and trust in commercial dealings. Accordingly, their duty to inform is generally limited to providing the brochures, manuals, and information supplied by the producer, as well as communicating any information actually known to them, without being held liable for information beyond their knowledge.

Under Algerian law, however, Article 17 of Law No. 09-03 imposes the obligation to inform on every "operator," a term defined in Article 3(8) of the same law as any natural or legal person involved in the process of offering products for consumption. This legislative approach does not distinguish between the producer, the specialized seller, and the non-specialized seller, thereby extending the obligation uniformly to all intervening parties, including electronic operators.

2. The Beneficiary of the Obligation to Inform

In principle, the status of the beneficiary of the obligation to inform is linked to a lack of knowledge of the relevant information[36]. Accordingly, whether the buyer is specialized or non-specialized plays a significant role in determining the extent of the seller's obligation[37].

a. The non-specialized buyer

The non-specialized buyer is typically a consumer who acquires goods to satisfy personal or family needs. In such cases, the scope of the obligation to inform is expanded to its fullest extent, as no prior knowledge of the product can be presumed. The consumer's ignorance is considered legitimate, and the electronic operator is therefore required to warn the consumer of all potential risks associated with the use of the product and the means of avoiding them[38]. In this context, the consumer's lack of knowledge is compensated by the seller's comprehensive expertise, upon which the consumer relies.

b. The specialized buyer

The buyer may, in some cases, possess professional expertise in the same field as the seller. This may lead to a narrowing of the scope of the seller's obligation to inform, particularly with regard to obvious characteristics or foreseeable risks, and may result in a mitigation or exemption from liability. The buyer's expertise is deemed capable of compensating for any informational shortcomings on the part of the seller[39].

Nevertheless, the obligation to inform may remain extensive even where the buyer is a professional, particularly when the product is innovative, newly introduced to the market, or characterized by advanced and complex technologies[40].

In conclusion, the obligation to inform rests upon every operator involved in offering products for consumption, while the consumer remains the beneficiary of this obligation, regardless of whether they are specialized or not. This approach is clearly reflected in Article 17 of Law n 09-03 on

Consumer Protection and the Suppression of Fraud, as amended, which does not differentiate between categories of sellers or consumers.

Subsection Two: The Legal Framework of the Obligation to Inform the Consumer

Determining the legal framework governing the obligation to inform the consumer constitutes a fundamental issue in the field of consumer protection, given the pivotal role this obligation plays in restoring contractual balance and ensuring the informed consent of the weaker party in the contractual relationship. This framework is not limited to defining the obligation itself, but extends to identifying its legal nature, examining the justifications that prompted the legislator to establish it, and clarifying the legal mechanisms designed to ensure its effectiveness. Accordingly, this subsection examines the legal nature of the obligation to inform, followed by an analysis of the justifications underlying the consumer's right to information, and concludes with an overview of the principal means through which this obligation is implemented.

Sub-subsection One: The Legal Nature of the Obligation to Inform

Determining the legal nature of the obligation to inform raises complex doctrinal and judicial issues, due to its interaction with the various stages of the contractual process and the diversity of its legal foundations, whether in terms of its source or the extent of the debtor's commitment. Consequently, examining this legal nature requires addressing two fundamental questions: first, whether the obligation to inform constitutes a legal or a contractual obligation; and second, whether it should be classified as an obligation of result or merely an obligation of means.

First: Whether the Obligation to Inform Constitutes a Legal or a Contractual Obligation

Legal doctrine has diverged with regard to the legal nature of the obligation to inform the consumer into two principal approaches: one considers it to be non-contractual in nature, while the other attributes to it a contractual character.

1. **The Obligation to Inform as a Legal Obligation**

A segment of legal doctrine considers the failure of the debtor to inform the consumer as a breach of a legal obligation, giving rise -where damage is sustained by the consumer- to tortious liability. According to this view, the professional commits a tortious fault outside the scope of contractual performance, since no contractual obligation has yet arisen[41]. The obligation to inform operates at the pre-contractual stage, during which it assumes a purely legal nature. In this context, the obligation is imposed directly by the legislator, who determines both the nature of the information to be disclosed and the sanctions applicable in the event of non-compliance. Consequently, liability arises by operation of law, independently of any contractual bond[42].

In light of the foregoing, it may be concluded that there are two distinct forms of the obligation to inform: the first arises prior to the conclusion of the contract and is of a purely legal nature, while the second emerges during the performance phase of the contract and is characterized by a hybrid nature, combining both legal and contractual elements.

2. **The Obligation to Inform as a Contractual Obligation**

Another strand of legal doctrine maintains that the obligation to inform constitutes a contractual obligation in both of the aforementioned stages, irrespective of the nature of the information that the debtor is required to disclose. This position is grounded in the view that the rules governing contractual liability may extend to encompass faults committed prior to the conclusion of the contract[43], where such faults have influenced the pre-contractual negotiations or the formation of the contract itself, even if their effects only become apparent after the contract has been concluded[44].

Second: Whether the Obligation to Inform Constitutes an Obligation of Result or an Obligation of Means

Legal doctrine has diverged on the classification of the obligation to inform. While some scholars consider it to be an obligation of result, others maintain that it constitutes merely an obligation of means, requiring the debtor to exercise due care rather than to guarantee a specific outcome[45].

1. **The Approach Considering the Obligation to Inform as an Obligation of Result**

A segment of legal doctrine maintains that the obligation to inform regarding the characteristics of the goods or the risks associated with their use falls within the category of obligations of result[46]. This position is justified by the objective of ensuring the buyer's safety and affording effective protection against the professional seller, who enjoys superior economic and technical power. Accordingly, the seller's liability arises once the buyer establishes the occurrence of damage, leaving the seller with no means of exoneration other than proving the existence of an external cause.

2. **The Approach Considering the Obligation to Inform as an Obligation of Means**

Legal doctrine and case law have generally settled on the requirement of two criteria for classifying the obligation to inform as a mere obligation of means.

(a) The Probability Criterion:

According to this criterion, the obligation to inform is deemed an obligation of means where the expected result is probable rather than certain. In such cases, the debtor's duty is limited to providing the information and data required by law, without guaranteeing the creditor's attention to, understanding of, or actual benefit from that information. Accordingly, the debtor is discharged from liability once the consumer has been duly informed of the necessary elements to enlighten their consent prior to the conclusion of the contract or to ensure their safety during its performance[47].

(b) The Criterion of the Creditor's Role in Achieving the Result:

Under this approach, the obligation qualifies as an obligation of means whenever the creditor plays an active role in the achievement—or non-achievement—of the intended result, that is, when the creditor remains free to realize or prevent such result. Conversely, the obligation is classified as an obligation of result when the creditor's role is merely passive and subject to the debtor's directions.

Applying these criteria, it appears that the buyer, as the creditor of the obligation to inform, plays an active role in achieving the intended outcome. The buyer may heed the warning or disregard it, and may even act contrary to certain information or instructions provided by the seller, thereby confirming the probabilistic nature of the expected result.

Third: The Modern Approach

A recent doctrinal trend seeks to determine the legal nature of the obligation to inform by examining precisely what the debtor is required to do in relation to the creditor[48]. This approach attempts to define the obligation to inform as an independent duty, distinct from other obligations, such as the obligation to guarantee safety, which influenced the perspectives of earlier schools of thought.

By focusing on the actual duties incumbent upon the debtor under the obligation to inform, it becomes difficult to classify it strictly as either an obligation of means or an obligation of result in the literal sense. On one hand, it exceeds a mere obligation of means because certain actions are specifically required from the debtor. On the other hand, it falls short of a full obligation of result because some outcomes remain outside the debtor's control, leaving certain aspects to the discretion of the creditor. Accordingly, some scholars have characterized this as a "weakened" obligation of result[49].

In conclusion, the seller's obligation to inform can be understood as comprising two complementary dimensions:

1. An obligation of result, which consists of transmitting all necessary information and data to the buyer.
2. An obligation of means, which requires the seller to employ appropriate measures and methods to effectively convey this information to the consumer[50].

Sub-subsection Two: Justifications for the Consumer's Right to Information

The legislator did not recognize the consumer's right to information arbitrarily; rather, it stems from a set of legal, economic, and social considerations arising from the profound transformations that have affected modern commercial transactions. The main justifications for this right can be summarized as follows:

First: Restoring Equality of Knowledge Between the Contracting Parties

The asymmetry of knowledge between contracting parties constitutes a fundamental basis for the pre-contractual duty to inform[51]. This disparity in knowledge has been significantly amplified by industrial and technological advancements. The resulting imbalance in technical knowledge has led both legal doctrine and jurisprudence to adopt the standard of the skilled and experienced professional rather than that of the ordinary person when assessing the obligations of professionals and craftsmen toward consumers[52].

Consequently, French doctrine and case law hold that a professional seller is not only obliged to provide ordinary information regarding the product but is also required to dispel any uncertainty related to the use of technical or household devices, particularly when the appearance of a device could be confused with other devices intended for different purposes[53].

Second: Restoring Contractual Balance

The relationship between professionals and consumers is often characterized by an imbalance in knowledge, expertise, and awareness of the contractual circumstances. This asymmetry grants professionals certain advantages that can lead to a disruption of equilibrium in contractual relations. Such a situation creates a form of dependence, whereby the consumer reasonably places trust in the professional and delegates decision-making to them.

Consequently, the professional is obliged not to betray this trust or exploit their superior knowledge and economic position to skew the contractual benefits in their favor. This is achieved by imposing a duty on the professional to provide the other party -usually the consumer- with sufficient information, ensuring that the consumer's level of knowledge aligns with that of the professional[54].

Third: Economic Developments

The scientific and industrial progress witnessed during the twentieth century led to the emergence of new production and distribution techniques, resulting in a diversification of products in terms of forms, sizes, benefits, and uses. Services, too, experienced unprecedented development. Amid this substantial increase in the volume and complexity of goods and services, consumers -often unaware of what is being offered in the market- tend to engage in contracts hastily. They may accept an offer without careful consideration, only to find that the product or service does not meet their expectations upon receipt.

One of the primary consequences of the rapid pace of commercial transactions is that decisions are often made without giving the consumer sufficient time to fully assess their implications. Consumers rely heavily on the information and verbal assurances provided by the other party, without having the means to independently verify them. As a result, contracts are concluded despite the consumer's lack of access to essential information, highlighting the necessity of legally mandated pre-contractual disclosure to ensure informed consent[55].

Sub-subsection Three: Means of Consumer Information

The Algerian legislator has sought to translate the obligation to inform consumers into practical and tangible mechanisms that ensure its effectiveness and prevent it from remaining a merely theoretical commitment. To this end, a set of legal instruments has been established, which economic operators are required to comply with, foremost among them product labeling, packaging, and the disclosure of prices and terms of sale.

These mechanisms constitute the primary channels through which information is conveyed to consumers, enabling them to form an informed decision prior to contracting. By imposing such obligations, the legislator aims to enhance transparency in commercial transactions, reduce information asymmetry between professionals and consumers, and reinforce the principle of informed consent as a cornerstone of consumer protection.

First: Product Labeling

Product labeling constitutes a modern marketing tool. From a preventive perspective, producers of goods and service providers are required to comply with labeling obligations so that labeling serves as a means of providing consumers, prior to contracting[56], with fair, truthful, accurate, detailed, and comprehensive information regarding all data and characteristics that distinguish the product or service. Labeling thus fulfills both an informational and a safety function[57]. On the one hand, it performs an informational role by acting simultaneously as an identification and promotional card for the product, as reading labeling data directly influences the consumer's purchasing decision. On the other hand, labeling serves as a safety mechanism through which professionals draw the consumer's attention to risks arising from the use of the product. In such cases, warning labels are typically characterized by clear presentation, distinct colors different from those used for informational labeling, and by the use of specific expressions or symbols conveying the intended meaning, such as: "harmful to health," "toxic," "risk of death," "do not touch," "do not exceed the recommended quantity," or "not for oral use," among others. Such warnings are commonly found on hazardous or toxic products, dangerous medicines, as well as cosmetic and personal cleaning products.

In view of the importance of labeling, the Algerian legislator has established several sanctions for failure to comply with labeling requirements. These include penalties provided for under the Penal Code -particularly Articles 288 and 289- as well as sanctions stipulated in consumer protection laws and implementing decrees previously referred to.

Second: Product Packaging

Packaging constitutes a necessary measure to protect products from any risks that may harm the consumer[58], and it also serves as an important means of consumer information[59]. Packaging plays a central role in familiarizing consumer groups with the characteristics of products and services, identifying their needs, and indicating how such needs may be satisfied. It further operates as a mechanism for consumer protection by presenting the product in accordance with appropriate packaging standards, with the aim of fulfilling the consumer's legitimate expectations regarding the intended results of its use.

The Algerian legislator has established the mandatory nature of product packaging pursuant to Article 10, paragraph 2, of Law n 09-03 on Consumer Protection and the Suppression of Fraud. In addition, packaging was defined under Article 2 of Executive Decree n 04-210 of 28 July 2004, which sets out the procedures for determining the technical specifications of packaging intended to directly contain foodstuffs or items designed for children[60], as: "any bag, box, case, container, vessel, or, more generally, any receptacle made of wood, paper, glass, fabric, or plastic that directly contains food products or items intended for children, as well as any bag intended for their packing or transport." It should be noted that packaging is not standardized across all products; rather, each product is packaged according to its specific nature and composition.

Third: Informing Consumers of the Prices of Products and Services

The Algerian legislator has imposed on sellers and electronic intermediaries the obligation to inform consumers of prices in advance, pursuant to Law n 04-02, which sets out the rules governing commercial practices. Articles 4 to 7 of this law regulate the obligation to inform consumers of the prices of products and services. As a general rule, the determination of prices for goods and services is based on the principle of freedom of pricing within the framework of transparent and fair competition. This principle constitutes an essential safeguard for consumer interests[61].

The legislator has enshrined this principle through Competition Law No. 03-03 of 19 July 2003[62], as amended and supplemented by Law n 12-08 of 25 June 2008, which provides in Article 4 that: "The prices of goods and services shall be freely determined in accordance with the rules of competition. However, the State may restrict the general principle of price freedom under the conditions set out in Article 5 below."[63]

Furthermore, Article 4 of Law n 04-02 expressly provides for the obligation to inform consumers of prices, stating that: "The seller is required to inform customers of the prices and tariffs of goods and services, as well as the conditions of sale." Consumer information regarding prices may be provided through several means specified in Article 5 of the same law, which states that: "Consumer information on the prices and tariffs of goods and services must be provided by means of markings, labeling, notices, or any other appropriate means."

The legislator has also required that information relating to prices and tariffs be displayed in a visible and legible manner. In addition, goods offered for sale—whether sold by unit, weight, or measure—must be counted, weighed, or measured in the presence of the consumer. Where goods are pre-packaged, counted, weighed, or measured in advance, a mark must be affixed to the packaging indicating the weight, quantity, or number of items corresponding to the declared price[64]. A reading of Article 4 of the aforementioned law reveals that consumer price information is primarily ensured through the use of markings, labels, or notices, as individual disclosure to each consumer is deemed insufficient.

Fourth: Informing Consumers of the Conditions of Sale

The Algerian legislator has expressly provided for the obligation to inform consumers of the conditions of sale in Article 4 of Law n 04-02, which states that: *"The seller is required to inform customers of the prices and tariffs of goods and services, as well as the conditions of sale."* The content of the conditions of sale that must be disclosed is further specified in Article 8 of the same law, which provides that: *"Prior to the completion of the sale transaction, the seller shall inform the consumer, by any means and according to the nature of the product, of truthful and honest information relating to the characteristics of the product or service, the conditions of sale applied, as well as the foreseeable limits of the contractual liability arising from the sale or the service."*

Accordingly, the legislator has imposed on the economic operator or seller, in their relationship with the consumer, an obligation to provide the latter with honest information concerning the characteristics of the product or service, to inform them of the applicable conditions of sale or service provision, and to disclose the foreseeable limits of contractual liability associated with the sale or service[65].

The purpose of this form of information is to enlighten consumers regarding the specific modalities for the performance of the contract, particularly where such modalities depart from the general rules of civil law. These may include, for example, conditions relating to delivery, methods of payment, terms governing contract cancellation or renewal, and similar matters. However, the legislator did not provide an exhaustive definition of the information to be disclosed, the precise content of the conditions of sale, or the specific clauses that may limit contractual liability. In the event of a breach of this obligation, the consumer is entitled to withdraw from the contract concluded[66].

Reference may also be made to Article 30 of Law n 04-02, which provides that: *"For the purpose of protecting the interests and rights of consumers, the essential elements of contracts may be determined by regulation, and the use of certain clauses deemed abusive may be prohibited in various types of contracts."* Through this provision, the legislator delegated the determination of the essential elements of contracts to regulatory instruments[67]. In application of this article, Executive Decree No. 06-306 was adopted, specifying the essential elements of contracts concluded between economic operators and consumers, as well as clauses considered abusive. This decree defines, in Articles 2, 3, and 4, the essential elements of contracts, and identifies, in Article 5, abusive clauses, in addition to those listed in Article 29 of Law n 04-02 on commercial practices.

Finally, given the importance of consumer information—particularly with regard to prices and contractual conditions—the legislator has provided for sanctions in cases of non-compliance. Title IV of Law n 04-02 sets out the penalties applicable to violations related to the failure to inform consumers of prices and tariffs in accordance with Articles 4, 6, and 7 of the same law.

Section Two: Guarantee of the Consumer's Right of Withdrawal from the Electronic Contract

The electronic consumer enjoys particular legislative attention, in recognition of the specific nature of the digital environment and the practical and legal challenges it entails at the stage of contract formation—especially in light of the absence of direct physical inspection, the rapidity of contracting procedures[68], and the reliance on marketing techniques grounded in attractiveness and persuasive appeal. Accordingly, legislative intervention has not been confined to enshrining the duty of disclosure as a preventive mechanism; it has also established the consumer's right of withdrawal from the electronic contract as a fundamental safeguard aimed at protecting contractual consent and remedying the imbalance inherent in consumer transactions.

The right of withdrawal constitutes an exceptional legal mechanism that enables the consumer to reconsider and rescind his or her contractual commitment within a legally prescribed period, without the need to justify the decision or to prove the existence of any defect in consent. This right is grounded in the concept of granting the consumer a "cooling-off period" (délai de réflexion), allowing for an objective assessment of the suitability of the goods or services to the consumer's actual needs, free from advertising pressure or the haste that often characterizes electronic contracting.

The legislature has subjected the exercise of this right to a precise regulatory framework governing its duration, modalities of exercise, and the legal effects arising therefrom, with a view to maintaining a fair balance between the consumer's interest in withdrawal and the professional's interest in transactional stability. Where the consumer validly exercises the right of withdrawal within the statutory period, the contractual relationship is dissolved retroactively. Consequently, the consumer is obliged—where applicable—to return the goods, and the professional is correspondingly required to reimburse the sums paid in accordance with the legally prescribed conditions and time limits.

Thus, the right of withdrawal is not merely a procedural privilege; rather, it constitutes a substantive guarantee for the protection of the electronic consumer's contractual will. It reflects a clear legislative policy aimed at fostering trust in digital transactions and strengthening legal certainty within the electronic marketplace.

Subsection One: The Concept of the Electronic Consumer's Right of Withdrawal

The rapid advancement of technology has generated profound transformations in the field of contracting, as in other economic and social spheres. Modern methods of concluding contracts through electronic means have emerged, characterized by speed, automation, and the absence of the parties' physical presence. This contractual environment has given rise to a new reality marked by an imbalance between the parties to the contractual relationship, whereby the consumer is regarded as the weaker party in comparison to the professional, who possesses technical expertise, economic power, and sophisticated tools of marketing and influence.

In response to this reality, contemporary legislations have intervened to establish a legal framework designed to ensure the protection of the electronic consumer and to safeguard the integrity of his or her contractual consent. This intervention reflects an awareness of the potential exposure of consumers to advertising pressure, informational asymmetry, or hasty decision-making inherent in digital transactions. Among the most prominent manifestations of such protection is the recognition of the consumer's right of withdrawal from the electronic contract, conceived as a legal mechanism enabling the consumer to reconsider and rescind the contractual commitment within a specified period, without the obligation to state reasons.

Sub-subsection One: Definition of the Consumer's Right of Withdrawal from Electronic Contracting

The right of withdrawal (*droit de rétractation*) constitutes one of the principal manifestations of protection afforded to the weaker party in electronic contracts[69]. It operates as a safeguard against the potentially misleading or persuasive nature of advertising that may accompany the conclusion of such contracts—advertising which does not always reflect the true characteristics of the offers and may adversely affect the authenticity of the consumer's consent[70]. By granting a mandatory cooling-off period, the legislature has rendered this right indispensable within the framework of digital transactions.

Withdrawal from the contract is a personal right vested in the consumer, subject exclusively to his or her discretion and exercised in accordance with what best serves his or her interests The consumer is not required to provide any specific justification for exercising this right; consequently, the mere use of the right of withdrawal does not give rise to contractual liability[71].

Legal scholarship has advanced several definitions of the right of withdrawal in electronic contracts. Some jurists define it as "the authority of one contracting party to rescind the contract and release himself or herself from its effects without the consent of the other party[72] Others describe it as "one of the modern legal mechanisms established by the legislature to ensure effective and necessary protection for the consumer at the stage of contract performanc or as "the capacity of a contracting party, after the conclusion of the contract, to choose between confirming it and withdrawing from it[73]، Comparable definitions emphasize the freedom of withdrawal without requiring the express approval of the counterparty[74].

Western—particularly French—legal scholarship characterizes the right of withdrawal as "the declaration by a contracting party of the retraction of his or her previously expressed will, thereby stripping it of all present and future effects. It constitutes an expression of a contrary will; withdrawal is a power exercised by one of the contracting parties (the consumer) aimed at releasing himself or herself from the contract by unilateral will, without regard to the other party[75] Egyptian legal doctrine, for its part, conceives the right of withdrawal as a right accruing to the consumer within a specified period from the date of delivery, granting the option to return non-conforming goods, replace them with conforming ones, return them altogether, or recover the price paid, without incurring additional costs[76].

From the foregoing, it may be inferred that withdrawal represents the capacity of a contracting party, after the conclusion of the contract, to choose between completing its performance or rescinding it; for this reason, it is often referred to as the "option of withdrawal" in contracting[77] Linguistically, the term "option" denotes the selection of the better of two alternatives[78]. Certain French jurists further note that the right of withdrawal derives from a Latin expression meaning to revoke, correct, or reconsider what has previously been stated[79].

From a doctrinal standpoint, the right of withdrawal constitutes an effective means of consumer protection by granting a post-contractual reflection period during which the consumer may reconsider and disengage from a commitment already undertaken[80] Its exercise restores the parties to the position they occupied prior to contracting[81]. It is thus a legal mechanism enabling the consumer to rescind the agreement concluded with the supplier within a specified period—commonly referred to as a cooling-off period—during which the consumer may return the delivered product, provided that reasonable grounds exist[82].

Legislatively, withdrawal from electronic contracting is a right established by the legislature to protect consumers in the course of their electronic transactions It may be understood as a guarantee allowing the consumer to retract from the performance of a previously concluded contract within a defined period following its execution, without the need to provide justification or incur penalties, save for possible return costs[83].

Algerian consumer protection legislation has adopted this right, although without initially providing a precise definition. Article 13(3) of Law No. 09-03 on Consumer Protection provides that during the legally prescribed warranty period, in the event of a defect in the product, the intervening party must replace the product, refund its price, repair it, or modify the service at its own expense, and that the consumer shall benefit from the execution of the warranty without bearing additional charges[84].

Subsequently, Law No. 18-09 amending the Consumer Protection Law expressly recognized the right of withdrawal. Article 19(2) provides that the product offered to the consumer must not prejudice his or her material interests or cause moral harm, and explicitly states that withdrawal is the consumer's right to retract from the acquisition of a product without cause. It further affirms that the consumer may exercise this right in accordance with the contractual conditions and without incurring additional costs[89].

Moreover, Article 19(4) refers the determination of the conditions, modalities, time limits, and the list of products concerned by the right of withdrawal to implementing regulations[85]. It is noteworthy, however, that such regulatory provisions have not yet been issued.

Sub-subsection Two: Characteristics of the Right of Withdrawal

The right of withdrawal in contractual relations is distinguished by a number of specific characteristics, which may be outlined as follows:

First, this right applies exclusively to binding contracts and does not extend to contracts that are non-binding by their nature, such as agency agreements. Historically, French legislation enshrined the right of withdrawal in the context of distance contracts, particularly those concluded through telephone sales.

Second, the sources of the right of withdrawal are determined by law and, where applicable, by agreement. It is exercised through the unilateral will of the consumer, without the need to resort to judicial proceedings, without requiring the consent of the other party, and without the obligation to prove exposure to any form of pressure, influence, or deception. In this respect, the right of withdrawal constitutes a departure from the classical principle that "the contract is the law of the parties and may not be revoked or amended except by mutual agreement or for reasons prescribed by law." Accordingly, any exception to this principle must be expressly provided for either by statute or by agreement. The right of withdrawal therefore affects the binding force of the contract and represents a clear derogation from that foundational doctrine[86].

The right of withdrawal is a temporary right, that is, one subject to a fixed time limit, in order to preserve the stability of the contractual positions of the parties. It is extinguished either through its exercise or upon the expiry of the legally prescribed period.

The consumer's right of withdrawal is one of the rights established under consumer protection legislation. Given that such legislation embodies mandatory rules representing the minimum level of protection afforded to the consumer, this right is considered a matter of public policy[87].

Accordingly, the right of withdrawal may not be waived. The legal provisions governing this right fall within the category of mandatory rules; therefore, any clause or agreement that restricts or limits the exercise of this right is deemed absolutely null and void, even where the contract contains an arbitration clause as a mechanism for settling disputes arising from a consumer contract.

Furthermore, the right of withdrawal is characterized by its discretionary nature. When exercising this right, the consumer is not required to justify the decision to withdraw. It is established solely for the benefit of the consumer and not for the other party, including the electronic professional involved in the contract. It is an absolute right subject exclusively to the consumer's discretion: the consumer may either confirm the contract or withdraw from it. The power to decide whether or not to exercise this right rests entirely with the consumer, who may do so without stating reasons or providing justification.

This discretionary character raises the question of whether the exercise of the right of withdrawal must comply with the principle of good faith and whether the consumer may be prevented from abusing this right. The French Court of Cassation has addressed this issue in certain rulings, holding that the consumer may exercise the right of withdrawal even in bad faith, given that the right is linked to public policy considerations. Consequently, the judge is not permitted to review the consumer's conduct in order to assess whether it was abusive or undertaken in bad faith.

In addition, the right of withdrawal is exercised free of charge, without the consumer bearing any fees or expenses, so as to ensure its effective implementation.

Finally, the right is subject to a specific time limit within which it must be exercised[88]. If the consumer intends to withdraw, the intention must be expressed within the legally prescribed period, in order to safeguard the stability of transactions. French legislation initially granted the consumer a period of seven days to exercise this right in such contracts; subsequently, the Consumer Protection Law of 1993 extended this period to fifteen days. This rule also applies to contracts concluded via the Internet.

Sub-subsection Three: Scope of Application of the Right of Withdrawal from Electronic Contracts

The adoption by legislatures of the consumer's right to withdraw from electronic contracts reflects a clear intent to establish legal rules and provisions governing its exercise, given that this right constitutes a fundamental mechanism for consumer protection. As such, it requires a precise legal framework to ensure its proper and lawful implementation, whether with regard to the parties to the contract, the statutory time limit for exercising the right, or the subject matter to which the right of withdrawal applies—particularly where it arises as a consequence of a breach of the obligation to provide electronic information.

This section examines the scope of application of the right of withdrawal from electronic contracts through two main aspects: first, its application in relation to the persons concerned; and second, its application in relation to the time limit prescribed for its exercise.

First: Application of the Right of Withdrawal from the Electronic Contract in Terms of Persons

The right of withdrawal constitutes an innovative mechanism for consumer protection, as it allows the consumer to express two successive yet contradictory declarations of will, with the aim of avoiding the adverse consequences that may result from haste in concluding the contract. This right is subject to a set of legal rules and regulations to ensure its proper exercise and the production of its legal effects.

The beneficiary of the option to withdraw is generally the consumer, whereas the electronic intermediary or professional—referred to in electronic transactions as the electronic supplier—constitutes the other party in consumer contracts and is considered the stronger party in relation to the consumer.

1. The Consumer

The concept of the consumer has been previously examined. It appears that the legislator adopted the criterion of the purpose of acquisition in determining consumer status. Accordingly, a person qualifies as a consumer when the purpose of acquiring the good or service is to satisfy a personal need, the need of another person, or even an animal under their care; in other words, the purpose must be non-professional. By contrast, a person who acquires a good or service for professional purposes does not enjoy consumer status.[89]

Although the Algerian legislator adopted a narrow approach to the concept of the consumer, protection was extended to include legal persons. Under Law No. 18-05 on Electronic Commerce, Article 6(3) defines the electronic consumer as: "any natural or legal person who acquires, whether for consideration or free of charge, a good or service through electronic communications from an electronic supplier for the purpose of final use.

2. The Electronic Supplier

The terminology referring to the professional in Algerian consumer legislation has not been unified. Various terms have been employed across different legal texts. For instance, the term "intervener" was used in Executive Decree No. 90-266 and in Law No. 09-03 on Consumer Protection and Fraud Repression. The term "enterprise" appeared in Law No. 08-12 amending Competition Law, while the designation "economic agent" was adopted in Law No. 04-02 on Commercial Practices and in Executive Decree No. 06-306, which determines the essential elements of contracts concluded between economic agents and consumers and specifies clauses deemed abusive[90].

Article 3 of Law No. 09-03 on Consumer Protection and Fraud Repression defines the electronic intervener as "any natural or legal person intervening in the process of offering products for consumption." The use of the term "electronic intervener" reflects the legislator's intention to broaden the scope of consumer protection, enabling the consumer to identify the most appropriate party and placing the obligation of safety upon every professional involved, whether seller, importer, or distributor.

Furthermore, Law No. 18-05 on Electronic Commerce, in Article 6(4), defines the electronic supplier as "any natural or legal person who markets or proposes the provision of goods or services through electronic communications." Through this designation, the Algerian legislator uses the term "electronic supplier" to refer to the electronic professional or intervener in the context of electronic commerce[91].

second: Application of the Right of Withdrawal from the Electronic Contract in Terms of Time

Regarding the period within which the consumer may exercise the right of withdrawal from an electronic contract, the Algerian legislator has provided clear rules. Article 11, paragraph 2 of Executive Decree No. 15-114 on Consumer Credit stipulates:

"…However, the buyer is granted a withdrawal period of eight working days, calculated from the date of signing the contract, in accordance with the applicable legislation and regulations."

Thus, this Decree establishes a withdrawal period of eight working days, starting from the date the consumer is notified of approval to obtain the credit, as specified in Article 12(2):

"The effects of the sales contract shall not apply if the borrower does not inform the seller of the allocation of the credit within eight working days, starting from the date of notification of approval to obtain the credit."

Additionally, Article 14(1) of the same Decree provides that:

"When the product is sold at the consumer's home, the withdrawal period shall be seven days, regardless of the date of delivery or provision of the good."

Withdrawal periods are also specified in other legislation: the Insurance Law grants a two-month period under Article 9 bis, while the Monetary and Credit Law provides for an eight-day withdrawal period from the date of contract signature under Article 119 bis 1.

These provisions reflect the legislator's intent to standardize and regulate the timeframes for exercising the right of withdrawal, ensuring that consumers have adequate opportunity to reconsider their contractual commitments while maintaining legal certainty in commercial and financial transactions[92].

Third: Application of the Right of Withdrawal from the Electronic Contract in Terms of the Nature of the Contract

The criterion used to determine the scope of the right of withdrawal is not limited to the nature of the contract itself. It also encompasses the circumstances in which the contract was concluded, the purpose for which the right of withdrawal is recognized[93], the type, subject matter, or object of the contract, and the surrounding conditions of its conclusion. All of these factors must be considered in light of the objective and rationale for establishing the right of withdrawal[94]. Legal scholarship has differed regarding the types of contracts to which the provisions on the right of withdrawal should apply[95].

Consumer protection legislation has extended protection to electronic contracts, or distance contracts, by granting the consumer the right to withdraw from them. The Algerian legislator, however, has not provided a precise definition of this category of contracts. Instead, the legislation refers to the means by which such contracts are concluded and the methods of proof applicable to them.

The Algerian legislator intervened to regulate electronic contracts through the Law on Electronic Signatures, followed by the issuance of Executive Regulation No. 105 of 2005. Nevertheless, the legislation has not yet established the necessary provisions to resolve disputes that may arise regarding these contracts, the procedures for their conclusion, or the consequent legal effects.[96]

subsection Two: Mechanisms for Exercising the Right of Withdrawal from Electronic Contracts and Its Legal Effects

This section provides an in-depth analysis of the mechanisms through which consumers may exercise their right of withdrawal in electronic contracts. It aims to clarify not only the procedural steps involved but also the legal implications of exercising this right, as well as the responsibilities and obligations of both parties in the contract. Central to this discussion is the consideration of who bears the burden of proof when the consumer asserts that they have exercised their withdrawal right, as this has significant consequences for dispute resolution between consumers and electronic suppliers.

The right of withdrawal is designed to safeguard the consumer against hasty or ill-informed contractual commitments, particularly in the context of electronic commerce where the consumer cannot physically inspect the goods or services before acquisition. Therefore, understanding the correct mechanisms for exercising this right ensures both its effectiveness and the protection of the consumer’s legal interests.

Furthermore, this section explores the practical and legal aspects of the right, including the methods for communicating the withdrawal, the timelines within which it must be exercised, and the resulting effects on contractual obligations. It also examines the interplay between consumer rights and the duties of electronic suppliers, including the return of goods, refund of payments, and potential claims for damages, thereby providing a comprehensive framework for the proper implementation of this right within digital transactions.

By addressing both procedural and substantive dimensions, this section underscores the dual purpose of the right of withdrawal: protecting consumer autonomy and ensuring fairness and stability in the electronic marketplace.

Sub-subsection one: Mechanisms for Exercising the Right of Withdrawal

Legislation governing the right of withdrawal generally does not impose rigid procedural formalities for its exercise. The law recognizes that the consumer should be able to withdraw from an electronic contract with minimal barriers, reflecting the principle that this right serves as a protective mechanism for the weaker contractual party. It is therefore sufficient for the consumer to express their intention to withdraw, whether explicitly—through direct communication—or implicitly, such as by returning the goods received within the legally prescribed withdrawal period. This flexible approach ensures that consumers are not hindered by overly technical requirements that might compromise the effectiveness of the right.

However, from a practical and legal standpoint, it is strongly advisable for the consumer to communicate their withdrawal explicitly. Clear and documented communication helps prevent disputes over whether the right was properly exercised and establishes a verifiable record of the consumer's decision. Typical methods of explicit notification include sending a registered letter with acknowledgment of receipt, transmitting a fax, or submitting an electronic message (e-mail) to the supplier.

In practice, many electronic suppliers provide a pre-printed withdrawal form that the consumer can complete, sign, and send back either through the supplier's website, by mail, or to the supplier's physical office. Using such a form not only facilitates compliance with the law but also streamlines the process for both parties, ensuring that the withdrawal is legally recognized and efficiently processed.

It is essential that these communications occur within the legally defined withdrawal period, as failure to meet this timeframe may result in the loss of the right. By encouraging explicit and timely notification, the system balances the consumer's interest in freely exercising their withdrawal right with the supplier's need for legal certainty and operational stability.

Overall, the mechanism for exercising the right of withdrawal combines legal flexibility with practical guidance, aiming to maximize consumer protection while ensuring clarity and fairness in electronic commercial transactions[97].

Sub-subsection Two: Legal Effects of Exercising the Right of Withdrawal and Its Termination

The right of withdrawal from electronic contracts serves as a fundamental protective mechanism for consumers, allowing them to reconsider their contractual commitments within a legally defined period. Understanding the legal effects of exercising this right, as well as the circumstances under which it expires, is essential for both consumers and electronic suppliers. This ensures legal certainty, protects the interests of both parties, and prevents potential abuses. The following discussion examines the consequences of exercising the right of withdrawal and the mechanisms by which it terminates, highlighting the procedural and substantive obligations that arise in digital commercial transactions.

First. Legal Effects of Exercising the Right of Withdrawal from Electronic Contracts

The electronic contract, during the period in which the right of withdrawal may be exercised, is considered provisional and non-binding. This allows the consumer to unilaterally withdraw from the contract within the legally prescribed period, leaving the contract in a temporary state of uncertainty. The exercise of this right triggers several important legal effects that ensure both consumer protection and procedural fairness for the electronic supplier.

Upon exercising the right of withdrawal, the consumer is required to return the purchased goods to the electronic supplier in the same condition in which they were received. Additionally, the consumer may request the replacement of the purchased item with an identical product. The consumer bears the costs associated with returning or replacing the product [98]. This requirement serves to protect the electronic supplier from potential misuse or abuse of the withdrawal right and encourages consumers to act with care and seriousness when deciding to withdraw from the contract[99].

It is imperative that the consumer expresses their intention to withdraw clearly and explicitly. In certain situations, goods may be returned to the supplier due to technical or logistical errors, such as incorrect delivery addresses. Therefore, it is advisable to include a pre-prepared withdrawal form provided by the electronic supplier or to notify the supplier of the decision to withdraw through any suitable method. Merely returning the product does not constitute sufficient evidence of exercising the withdrawal right; explicit communication is necessary to ensure legal recognition of the consumer's intention. Importantly, the consumer is under no obligation to provide justification for exercising this right, nor may they incur penalties as a consequence of doing so. This underscores the protective nature of the right, emphasizing its role in safeguarding the consumer's autonomy and decision-making power in electronic transactions.

Under Algerian law, specifically Article 22 of Law No. 18-05 on Electronic Commerce, the electronic supplier is obligated to take one of several actions upon the consumer's withdrawal: deliver a new product conforming to the original order, repair the defective product, replace it with an equivalent item, or cancel the order and refund the amount paid. These obligations do not preclude the consumer from seeking compensation if damage occurs. Refunds must be processed within fifteen (15) days from the date the product is received.

This framework ensures a balanced protection scheme: the consumer enjoys the freedom to reconsider and withdraw from a contractual obligation without undue burden, while the supplier benefits from procedural safeguards that prevent arbitrary or abusive withdrawals. Such measures reflect the overarching legislative objective of fostering trust, clarity, and fairness in the rapidly evolving landscape of electronic commerce.

second: ermination of the Right of Withdrawal

The right of withdrawal represents one of the modern legal mechanisms adopted by the legislature to provide effective protection to the consumer. It is a temporary right, intrinsically linked to its purpose—consumer protection—which inherently renders it non-permanent. Consequently, this right ceases to exist under two specific circumstances:

1. **Expiration of the Prescribed Withdrawal Period:**

The consumer must exercise their right within a legally specified timeframe. This temporal limitation is essential to preserve the stability of commercial transactions; it would be inequitable for the professional to remain in a state of uncertainty regarding the status of the contract. The legal position of the professional would otherwise remain precarious for an indefinite period. Therefore, the right of withdrawal is bound by a fixed period, after which the contract acquires full binding effect on both parties. Neither party may subsequently unilaterally retract from the contract[100]. The duration of this period is carefully determined to balance two competing considerations: the protection of the consumer's interests and the stability of the contractual position of the other party, who seeks legal certainty regarding the transaction[101].

2. **Exercise of the Right of Withdrawal:**

If the consumer does not exercise their right within the withdrawal period, the provisional status of the contract lapses, and the contract becomes fully effective. Conversely[102], if the consumer chooses to exercise the right of withdrawal, the contract is effectively nullified and considered void ab initio, as if it had never existed. In such cases, both parties are restored to the state they occupied prior to contracting. The supplier is obligated to refund the amount paid by the consumer, while the consumer must return the purchased goods to the supplier.

This dual mechanism ensures a fair balance between consumer protection and contractual stability, reinforcing trust in electronic commerce while maintaining legal certainty for professional operators.

Conclusion

Given the risks associated with electronic contracts concluded by consumers—particularly their limited expertise compared to that of electronic operators, which may expose them to fraud or misleading practices when purchasing certain goods or services—protecting electronic transactions has become essential. This necessity is further emphasized by the digital nature of these contracts and the possibility that parties may have different nationalities, raising complex issues concerning applicable law and competent jurisdiction in case of disputes.

Consequently, most legal systems, including Algerian legislation, have recognized the consumer's right of withdrawal from electronic contracts as a fundamental safeguard, especially when the electronic information obligations are breached.

This study concludes that the right of withdrawal is a legally guaranteed consumer right, despite the variety of terms used across different legislations to describe it. It is characterized by mandatory rules that cannot be derogated from by agreement, reflecting its critical role in electronic contracting and the challenges posed by potential international elements, such as jurisdiction and applicable law.

The exercise of the right requires specific conditions, including explicit expression of the withdrawal, applicability to certain types of contracts, and the legal effects arising from its exercise on both parties. To address existing gaps and ensure the effectiveness of this right as a consumer protection mechanism in electronic contracting, it is recommended that legislation regulate it precisely. Furthermore, it is advised that Algerian lawmakers adopt a clear and detailed statutory framework, facilitating the practical application of the right and ensuring consumers fully benefit from its protective measures.

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[53]Hassan Abdelbasset Jamai, *op. cit.*, p. 22.
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[62] Official Gazette of the People's Democratic Republic of Algeria, No. 43, issued on 20 July 2003.
[63]Article 5, as amended by Article 4 of the aforementioned Law No. 08-12, now reads as follows:
*"The prices of goods and services deemed strategic by the State may be regulated through official measures, after obtaining the opinion of the Competition Council.
Exceptional measures may also be taken to curb or set prices, particularly in cases of excessive price increases due to market disturbances, disasters, chronic supply difficulties in a specific sector or geographic area, or in cases of natural monopoly.
These exceptional measures are enacted through regulation for a maximum period of six (6) months, renewable, after obtaining the opinion of the Competition Council."*
[64]Article 5, paragraphs 2 and 3 of the aforementioned Law No. 04-02.
[65]Article 8 of the aforementioned Law No. 04-02.
[66] Zigham Mohsen Ibtisam, Zigham Mohsen Ibtisam, *The Consumer's Right of Withdrawal from Contracting*, Master's Thesis in Law, Specialization in Private Law, Institute of Economic, Commercial, and Management Sciences, Department of Law, Haj Bouchaib University Center, Ain Temouchent, Algeria, 2019, p. 30.
[67] Article 2, paragraph 4 of Law No. 04-02 relating to commercial practices defines a contract as follows:
"Any agreement or arrangement aimed at the sale of a good or the provision of a service, drafted in advance by one of the parties to the agreement, to which the other party adheres without being able to introduce any substantial modification.

The contract may take the form of an order form, invoice, warranty certificate, schedule, delivery note, voucher, or any other document, regardless of its form or designation, containing the specifications or references corresponding to the pre-established general conditions of sale."

This definition reflects the legislator's adoption of a broad and functional understanding of the contract within the framework of commercial practices, emphasizing its pre-formulated and adhesive nature, particularly in relationships characterized by structural imbalance between the professional and the consumer.

[68]Abdelhadi Mohamed Al-Issawi, *Consumer Electronic Contracts*, 1st edition, Al-Wafaa Legal Library, Egypt, 2019, p. 121.

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[71] Khaled Mamdouh Ibrahim, *op. cit.*, p. 225.

[72] Mezghani Hizom Badr Eddine, Hakka Al-Arousi, *op. cit.*, pp. 78–94.

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[75] Abdullah Dheeb Abdullah Mahmoud, *op. cit.*, p. 11.

[76]Hadj Ahmed Abdelaziz, Moussa Mohamed, *op. cit.*, p. 10.

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[84] Law No. 09-03, *op. cit.*

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[87] Mezghani Hizom Badr Eddine, Hakka Al-Arousi, *op. cit.*

[88] Zigham Mohsen Ibtisam, *op. cit.*, p. 35.

[89] As for the definition of the consumer from a jurisprudential perspective, scholars have tended to define it using two concepts: the broad concept of the consumer and the narrow concept. For a detailed discussion, see: Imane Bouchareb, *Consumer Protection from Unfair Terms in Consumption Contracts*, Dar Al-Jami'a Al-Jadida, n.d., Alexandria, Egypt, 2018, pp. 33, 36; Azouz Saidi, *op. cit.*, p. 258; Abdel Monem Moussa Ibrahim, *op. cit.*, pp. 19–20; Azouz Saidi, "Provisions for Providing Protection to the Electronic Consumer under the Algerian Consumer Protection and Anti-Fraud Law," *Afaaq Journal for Research and Studies*, Issue 2, Vol. 2, Faculty of Law and Political Science, University of Larbi Ben M'hidi, Blida 2, Algeria, 2018, p. 258.

[90]Imane Bouchareb, *op. cit.*, pp. 24–25.
[91] Hadj Ahmed Abdelaziz, Moussa Mohamed, *op. cit.*, p. 53.
[92] *op. cit.*, p. 341.
[93]Mezghani Hizom Badr Eddine, Hakka Al-Arousi, *op. cit.*, pp. 78–94.
[94] Hadj Ahmed Abdelaziz, Moussa Mohamed, *op. cit.*, p. 55.
[95]This type of contract can be defined as: *"an order for goods and products offered through any audiovisual communication."* For other definitions, see: Hadj Ahmed Abdelaziz, *op. cit.*, pp. 55–56.As for paragraph 1 of Article 2 of European Directive No. 7 of 1997, a distance contract is defined as: *"any contract concerning goods or services concluded at a distance between a service provider and a consumer within a sales or service-provision system established by the professional, which makes use of one or more means of distance communication from the conclusion of the contract to its performance."* See: Karim Ezzat Hassan El-Shazly, *op. cit.*, pp. 341–342.
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[97] Hadj Ahmed Abdelaziz, Moussa Mohamed, op. cit., p. 80.
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[100] Ibid., p. 85.
[101] Ibid. p. 85.
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