

The Right of Withdrawal as a Mechanism for Consumer Protection'' An Analytical Study''

الحق في العدول كآلية لحماية المستهلك 'دراسة تحليلية'

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الملخص:

يتناول هذا المقال حق المستهلك في العدول وفق التشريع الجزائري كآلية لحماية الطرف الضعيف في العلاقة التعاقدية، حيث يتيح التراجع عن العقد ضمن مهلة محددة دون تبعات مالية. يناقش المقال خصائص هذا الحق القانونية وتمييزه عن نظم مشابهة كالفسخ والبطالان، ويحلل طبيعته القانونية وضوابط ممارسته الشخصية والموضوعية والزمنية. كما يستعرض التزامات المستهلك والمهني، مع التأكيد على أهمية الإعلام المسبق وتنفيذ الحقوق القانونية. ويخلص المقال إلى أن فعالية العدول تعتمد على وعي المستهلك والتزام المهني، ويقترح توصيات لتعزيز حماية المستهلك وتحقيق التوازن التعاقدي.

الكلمات المفتاحية: حق العدول، حماية المستهلك، العقود، التزامات الطرفين.

Abstract:

This article examines the consumer's right of withdrawal under Algerian law as a mechanism to protect the weaker party in contractual relationships, allowing retraction within a specified period without financial consequences. It addresses the legal features of the right, differentiates it from similar mechanisms such as rescission and annulment, and analyzes its legal nature alongside personal, objective, and temporal safeguards. The study also outlines the obligations of both consumers and professionals, emphasizing prior notification and compliance with legal duties. The article concludes that the effectiveness of withdrawal relies on consumer awareness and professional adherence and offers recommendations to strengthen protection and ensure contractual balance.

Key words: Withdrawal right, consumer protection, contracts, parties' obligations, Algerian legislation,

Introduction:

The consumer's right of withdrawal represents a fundamental component of contemporary consumer protection law, reflecting the modern legislator's effort to preserve equilibrium within contractual relationships between consumers and suppliers. In light of the exponential growth of commercial exchanges and the diversification of marketing practices, consumers have become increasingly vulnerable to influence and inducement, which may prompt them to conclude contracts without a comprehensive understanding of their terms or legal implications. Accordingly, the right of withdrawal has emerged as a preventive legal mechanism enabling the consumer to reconsider a contractual commitment within a period prescribed by law, without the requirement of justification and without incurring any financial liability.

This right constitutes an exception to the classical principle of "pacta sunt servanda" that contracts have the force of law between the parties. Nevertheless, the asymmetric nature of consumer relations, characterized by an imbalance of information and bargaining power, justifies the legislative recognition of this right as an essential safeguard of genuine consent. The Algerian legislator has expressly codified the right of withdrawal under Law No. 09-03 on Consumer Protection and the Suppression of Fraud, as amended, which sets out the substantive and procedural rules governing the exercise, scope, and legal consequences of withdrawal. This codification aligns with contemporary international approaches to consumer protection and evidences the legislator's commitment to the evolving doctrine of fairness in contractual relations.

The significance of this study lies in its examination of one of the principal consumer rights enshrined in Algerian law' the right of withdrawal' which encapsulates the progressive development of consumer-protection theory. Beyond its doctrinal relevance, the study underscores the functional role of this right in restoring contractual balance and evaluates the extent to which its legislative formulation conforms to the general principles of civil law, notably freedom of contract and the stability of legal transactions.

The objective of this research is to analyze the legal foundations of the right of withdrawal within the Algerian legislative framework, to identify the conditions and limits of its exercise, and to assess the legal consequences arising therefrom. The study further seeks to evaluate the effectiveness of the statutory regulation in ensuring genuine consumer protection and to interpret the relevant provisions in light of the protective rationale intended by the legislator.

The central research question may thus be stated as follows: To what extent has the Algerian legislator, through the statutory regulation of the consumer's right of withdrawal, succeeded in reconciling the protection of the consumer's free will with the imperative of contractual stability?

This study adopts an analytical and doctrinal methodology, grounded in the examination of Law No. 18-09 on Consumer Protection and the Suppression of Fraud, interpreted in conjunction with the general principles of civil and consumer law. The objective is to determine the coherence of the Algerian legal framework with the overarching aims of legislative consumer protection.

To accomplish these objectives and provide a systematic response to the research question, the analysis is structured into three main sections:

- **Section One:** The Concept and Legal Nature of the Right of Withdrawal.
- **Section Two:** The Statutory Framework Governing the Exercise of the Right.
- **Section Three:** The Legal Effects and Consequences of Withdrawal by the Consumer.

1- The Concept and Legal Nature of the Right of Withdrawal

The right of withdrawal constitutes one of the most significant rights guaranteed to consumers by the legislator, It grants them the ability to rescind a contract within a legally prescribed period following its conclusion, without the obligation to provide justification or incur any form of penalty, This right embodies the legislator's intent to uphold the principle of protecting the weaker contracting party and to ensure that the consumer's consent is exercised freely, consciously, and in an informed manner.

A comprehensive analysis of this right first requires an examination of its definition and essential characteristics in order to clarify its legal substance and to distinguish it from other related rights, It further necessitates differentiating the right of withdrawal from comparable legal mechanisms that may appear analogous in practical application. Finally, determining its precise legal nature is essential to understanding its position within the broader framework of consumer protection law.

1.1- The Concept of the Right of Withdrawal

Linguistically, the term withdrawal (in Arabic: al-'udūl) denotes "turning away from" or "departing from" something, It is derived from the verb 'adala, meaning to deviate, to turn aside, or to move away from a certain path, The expression may also imply returning or inclining toward something else, and thus linguistically conveys the notions of deviation, retreat, or reversal of direction¹. In legal terminology, the right of withdrawal is regarded as one of the fundamental rights granted by law to consumers. It allows the consumer, within a legally prescribed period, to reconsider a contract that has already been concluded and to terminate it without being required to provide justification or bear any legal consequences.

This right is referred to by various designations in comparative legal literature, such as the right of reconsideration, the cooling-off period, the right of regret, or the right of rescission, All these terms converge on the same legal concept granting the consumer an opportunity to retract a contractual decision after its conclusion².

In legal scholarship, multiple definitions of the right of withdrawal have been proposed. Some scholars define it as the power vested in one of the contracting parties to unilaterally revoke or dissolve the contract without the consent of the other party, This definition emphasizes the unilateral nature of the right and its departure from the traditional principle of mutual consent governing contractual termination.

Other jurists describe the right of withdrawal as a consumer's legal entitlement to return a good or refuse a service within a specific period determined by law, without providing any justification, while the trader or service provider, as the case may be, is obliged to reimburse the price, and the consumer bears only the cost of returning the product³.

These doctrinal formulations converge on a common understanding of the right of withdrawal as an exceptional mechanism designed to protect consumer autonomy and to balance contractual relations by granting the consumer a limited temporal margin to reconsider the contractual commitment.

From a statutory perspective, the Algerian legislator has explicitly recognized the right of withdrawal in Law No. 18-09 on Consumer Protection and the Suppression of Fraud. Article 19, paragraph 2, expressly provides that:

“...the consumer shall have the right to withdraw from the purchase of a product without the need to provide any justification.”

Furthermore, paragraph 4 of the same article refers the detailed conditions, procedures, time limits, and the list of products covered by this right to regulatory provisions, stipulating that:

“The conditions and procedures for exercising the right of withdrawal, as well as its time limits and the list of products concerned, shall be determined by regulation”.

This legislative formulation demonstrates the explicit codification of the right of withdrawal within Algerian consumer law and entrusts the regulatory authority with the task of specifying its scope and modalities of application⁴.

From the wording of this article, it is evident that the Algerian legislator has explicitly recognized, in paragraph 2, the consumer’s right to withdraw from the purchase of a product without being required to state any reasons, This constitutes an unequivocal legislative acknowledgment of the consumer’s unilateral power to terminate the contract within the legally prescribed period, thereby reinforcing the principle of protecting the weaker party in contractual relations.

However, under paragraph 4 of the same article, the legislator delegated to regulatory authority the task of defining the conditions, procedures, and time limits for exercising this right, as well as the list of products subject to it, This reference to secondary legislation gives the statutory provision a general and open-ended character, rendering its practical enforcement contingent upon the issuance of implementing regulations.

Accordingly, while the legislative recognition of this right marks an important advancement in consumer protection, its effectiveness remains conditioned upon regulatory intervention to delineate its precise scope and specify the exceptions thereto. Such regulation is essential to ensure a fair balance between the consumer’s interest in protection and the supplier’s legitimate interest in maintaining the stability of commercial transactions.

The right of withdrawal is distinguished by a set of essential characteristics that define its legal nature and scope of application, which may be summarized as follows:

- **A unilateral right vested in the consumer:**

This right is exercised solely at the consumer’s discretion, without requiring the consent of the other contracting party, It serves as an alternative mechanism to the doctrine of defects in consent, enabling the consumer to dissolve the contract unilaterally and without judicial intervention.

- **A gratuitous right:**

The exercise of the right of withdrawal imposes no financial obligation upon the consumer, save for the costs associated with returning the goods, Any contractual clause that imposes a pecuniary charge for exercising this right is deemed null and void.

▪ **A time-limited right:**

The right of withdrawal is not absolute; it is constrained by a specific time period, The duration varies according to the nature of the contract, In the case of goods, the withdrawal period commences on the date the consumer receives the product, whereas for services, it begins from the date the contract is concluded⁵.

▪ **An unconditional right:**

Its exercise is not contingent upon any breach of contractual obligations by the other party, nor upon proof that the consumer was subject to undue influence or deception.

▪ **A temporary right:**

The right of withdrawal is of a temporary nature; it extinguishes either upon its exercise or upon the expiration of the statutory period prescribed for its use. The right lapses once the consumer begins to use the product or service, since such use constitutes conclusive evidence of acceptance of the contract. Legislation may also specify particular conditions under which a product or service is deemed to have been used. Furthermore, the right expires upon the lapse of the legally defined withdrawal period, which differs from one legal system to another depending on the consumer protection policy adopted in each jurisdiction, Some statutes expressly determine this period, as in e-commerce legislation, while others leave it to the parties' agreement, provided that the time limit is reasonable and clearly disclosed to the consumer in advance, in accordance with the principle of transparency, Failure to exercise the right within that period results in its definitive extinction, rendering the contract fully binding and precluding any unilateral revocation thereafter⁶.

▪ **A matter of public order:**

The right of withdrawal is governed by public policy and may not be waived by the consumer, It constitutes a personal and inalienable right, and any attempt by the seller to compel the consumer to relinquish it is legally ineffective, Consequently, any contractual term depriving the consumer of this right is deemed null and void⁷.

It is thus evident that the right of withdrawal constitutes a legal entitlement granted to the consumer, enabling them to rescind the contract within a specified period without the need to justify their decision or bear any penalties, This mechanism serves as a legal safeguard aimed at reinforcing the principle of balance in contractual relations and ensuring protection for the weaker contracting party.

This right is characterized by several essential features, it is a unilateral right, exercised solely by the consumer without the participation or consent of the other party, a gratuitous right, the exercise of which does not entail any financial burden; and a time-limited right, which expires upon the lapse of the legally prescribed period. It is also an unconditional right, in that its exercise does not require justification or proof of wrongdoing by the supplier.

Moreover, the right of withdrawal falls within the category of temporary rights that are bound by specific legal time frames, Accordingly, it constitutes one of the fundamental pillars of the consumer protection regime, as it provides a genuine safeguard for the preservation and autonomy of the consumer's contractual will.

1.2- Distinguishing the Right of Withdrawal from Similar Legal Mechanisms

The right of withdrawal constitutes an exceptional prerogative independently granted by the legislator to the consumer. However, its exercise may give rise to confusion with other legal mechanisms that likewise result in the dissolution or termination of a contract most notably nullity and rescission, Distinguishing between these mechanisms is therefore essential in order to elucidate the distinctive nature of the right of withdrawal, delineate its precise legal boundaries, and avoid conflating it with other remedies established by law.

In this regard, the analysis will first address the distinction between the right of withdrawal and nullity, the latter being a sanction for defects in consent or violations of mandatory legal provisions (Section One). It will then examine the distinction between the right of withdrawal and **rescission**, which operates as a remedy for non-performance of contractual obligations by one of the parties (Section Two).

First: Distinguishing the Right of Withdrawal from Nullity

The right of withdrawal from a contract may, at first glance, appear similar to the doctrines of absolute and relative nullity, in that all three mechanisms result in the retroactive extinction of the contract, rendering it as though it never existed. However, this similarity is merely superficial, as fundamental differences exist between them on several levels⁸.

- **Legal Basis:**

Absolute nullity arises when one of the essential elements of a contract is lacking, or when the contract violates mandatory provisions of public order. Relative nullity, by contrast, is grounded in a defect in consent such as coercion, mistake, or fraud. The right of withdrawal, however, does not rest on the existence of any defect or irregularity in the contract, It is rather a legislative safeguard conferred upon the consumer, enabling them to unilaterally retract from the contract within a prescribed period, without the obligation to justify their decision or demonstrate any harm.

- **Legal Status of the Contract:**

A contract that is absolutely null is considered legally void ab initio and produces no effects whatsoever, A relatively null contract, on the other hand, remains valid and effective until a judicial decision declares its annulment. By contrast, in the case of withdrawal, the contract is presumed valid, complete, and enforceable in all respects, and it ceases to exist only if the consumer exercises their right of withdrawal within the legally determined period.

- **Scope of Persons Entitled to Invoke Extinction:**

Absolute nullity may be invoked by any interested party, and even by the court ex officio.

Relative nullity, however, may be invoked only by the contracting party whose consent was vitiated.

The right of withdrawal, in contrast, is strictly personal to the consumer. It may be exercised solely by the consumer, as the weaker party whom the legislator sought to protect by granting a specific prerogative to safeguard their contractual will within consumer transactions.

Second: Distinguishing the Right of Withdrawal from Contractual Rescission

The law grants the consumer the right of withdrawal after the conclusion of a contract, whereas rescission applies in cases where one of the contracting parties fails to fulfill their obligations. Both mechanisms produce a similar legal effect each restores the parties to the status quo ante, as if the contract had never been formed. Thus, both constitute grounds for the retroactive termination of a valid and properly constituted contract⁹.

Points of Distinction:

- **Legal Foundation:**

Rescission is grounded in the principles of equity and good faith, aiming to remedy injustice caused by one party's non-performance or breach of contractual obligations. The right of withdrawal, by contrast, is founded on the protective rationale of safeguarding the consumer's consent from undue influence, commercial pressure, or impulsive decision-making resulting from lack of experience or information.

- **Cause of Exercise:**

Rescission may only be invoked in the event of a contractual breach by the other party. The right of withdrawal, however, is a purely voluntary prerogative, exercised independently of any breach or fault¹⁰.

- **Procedural Nature:**

The right of withdrawal operates unilaterally through the consumer's sole declaration of intent and does not require judicial intervention. Conversely, judicial rescission necessitates a court ruling, unless an express termination clause (clause résolutoire expresse) is included in the contract.

- **Requirement of Justification:**

A party seeking rescission must justify their claim either by invoking an express termination clause or by demonstrating the conditions for rescission as prescribed by law. In contrast, the consumer exercising the right of withdrawal is **not required to provide any justification or reason** for their decision¹¹.

From the foregoing, it is clear that the right of withdrawal differs from nullity. The latter arises from a defect affecting the contract, resulting in its annulment either by operation of law or by judicial decision. In contrast, withdrawal applies to a valid and enforceable contract and may be exercised solely by the consumer's will within a legally prescribed period. It also differs from termination, which constitutes a sanction for one party's breach of contractual

obligations and leads to the dissolution of the contract either immediately or through judicial intervention. Withdrawal, however, is not based on any breach, but rather on the consumer's unilateral desire to reconsider the transaction, given their position as the weaker party in the contractual relationship.

1.3- The Legal Nature of the Right of Withdrawal

The consumer's right of withdrawal raises a fundamental question regarding its legal characterization, as jurists have long differed in defining its nature and the scope of its exercise. The debate centers on whether this right should be regarded, first, as an inherent right of the consumer, stemming from their status as the weaker party in the contractual relationship or second, as a statutory exception a legal derogation granted by the legislator as a departure from the general principle of the binding force of contracts, or third, as a legal prerogative affording the consumer the discretionary power to determine whether to maintain or withdraw from the contract under specific legal conditions.

Accordingly, the examination of the legal nature of this right requires an analysis of these three theoretical approaches in order to identify its proper juridical foundation within the broader framework of consumer contract law.

First: The Right of Withdrawal as a Consumer's Substantive Right

Proponents of this view argue that the right of withdrawal constitutes a legal right akin to other subjective rights recognized by law, whether real rights or personal rights. According to this approach, the legislator has granted the consumer a genuine legal entitlement enabling them to retract from the contract within a defined period, similar in nature to other rights that may be exercised by their holders¹².

However, this characterization has been subject to criticism. It is argued that the right of withdrawal cannot be classified as a personal right, since personal rights presuppose a debtor-creditor relationship requiring the debtor's performance of an obligation something not present in the exercise of withdrawal, which depends solely on the unilateral will of the consumer¹³. Likewise, it cannot be regarded as a real right, because it does not involve any direct or immediate power over a specific object¹⁴.

Second: The Right of Withdrawal as a Legal Authorization

A second line of scholarly thought considers the right of withdrawal to be a legal authorization granted by the legislator to the consumer. Under this view, the right functions as an exceptional statutory license allowing the weaker contracting party the consumer to rescind the contract without cause, even in the absence of any breach by the professional or supplier. This construction emphasizes the legislator's protective intent and the exceptional nature of the right as a deviation from the general rule of (the binding force of contracts)¹⁵.

Nevertheless, this interpretation has been criticized. It is argued that describing withdrawal as a mere legal authorization fails to capture its full juridical effect, since the exercise of withdrawal imposes a correlative obligation on the other contracting party namely,

to comply with the consumer's decision and to bear the ensuing legal consequences, such as refunding the price or reversing the transaction, Such effects go beyond the notion of a discretionary permission or faculty, which does not ordinarily generate binding obligations for others¹⁶.

Third: The Right of Withdrawal as a Legal Faculty

A legal faculty occupies an intermediate position between a right and a mere authorization, It grants its holder the unilateral power either to create or to prevent the creation of a specific legal situation, with the exercise of this faculty depending solely on the will of its holder without requiring the consent or cooperation of the party against whom it is exercised¹⁷.

From this perspective, the right of withdrawal may be viewed as a legal faculty conferred upon the consumer, enabling them to unilaterally terminate the contractual relationship within the statutory period, The effectiveness of this act derives exclusively from the consumer's will, independent of the supplier's assent.

It follows that scholarly opinion has diverged regarding the proper legal characterization of the right of withdrawal: some have considered it a subjective right, others a statutory authorization, and others still a legal faculty. However, Article 19 of Algerian Law No. 18-09 on Consumer Protection clearly establishes it as a personal and original right vested in the consumer, granting them the legal capacity to withdraw from the contract within a defined time limit, without the need to provide justification, This legislative formulation affirms the consumer's autonomy while embedding the right of withdrawal firmly within the protective framework of consumer contract law.

2. The Legal Provisions Governing the Right of Withdrawal

While the legislator has recognized the consumer's right of withdrawal as one of the principal protective mechanisms ensuring the freedom of contractual consent, the exercise of this right is not absolute, Rather, it is governed by a set of legal rules that regulate its exercise and determine its consequences.

These provisions manifest themselves in two fundamental aspects, On the one hand, it is necessary to examine the legal conditions and limitations imposed on the consumer's right of withdrawal, aimed at achieving a balance between the consumer's interest in safeguarding their will and the supplier's interest in maintaining transactional stability , On the other hand, attention must be given to the procedural and practical modalities through which the consumer exercises this right.

2.1 The Legal Conditions Governing the Consumer's Right of Withdrawal

Despite its fundamental importance as a means of protecting the consumer's freedom of consent, the right of withdrawal is not of universal application, It cannot be invoked in all types of contracts, nor may it be exercised by any person at any time without restriction, The legislator has therefore subjected its exercise to a number of specific legal conditions and limitations, which will be examined in detail below.

2.1.1 Persons Entitled to Exercise the Right of Withdrawal (The Personal Condition)

It is evident from the relevant legislative provisions that the beneficiary of the right of withdrawal is the consumer, In accordance with Article 3 of the Algerian Consumer Protection Law No. 18-09, the consumer is defined as:

“Any natural or legal person who, for consideration or free of charge, acquires a good or service intended for final use, either to satisfy their personal needs or those of another person or an animal under their care”.

This definition clarifies that the right of withdrawal is reserved exclusively for individuals or entities acting outside any professional or commercial purpose, as the legislator's intent is to protect the weaker contractual party namely, the consumer against imbalance and pressure that may vitiate their consent, Consequently, professionals, traders, and entities acquiring goods or services for production, resale, or business purposes are excluded from the scope of this right, as they are presumed to possess the knowledge and bargaining power necessary to safeguard their interests.

2.1.2 Contracts Subject to and Exempt from the Right of Withdrawal (The Objective Condition)

The right of withdrawal, being an exception to the principle of the binding force of contracts, does not constitute a general right applicable to all contractual relationships. Its scope is instead determined by the legislator's intent and the degree of protection sought for the consumer. Accordingly, identifying the nature of the contract's subject matter is essential to defining the contracts to which this right applies, as well as those expressly excluded from its ambit.

▪ Contracts Subject to the Right of Withdrawal

In principle, the right of withdrawal extends to all consumer contracts, particularly distance contracts concluded through electronic means, telephone, or correspondence, where the consumer does not have a direct opportunity to examine the good or service before committing.

The exclusion of a contract from the right of withdrawal in the field of consumer protection must be expressly provided for by a clear and specific legislative text, as any limitation on this right is considered an exception that cannot be presumed.

▪ **Contracts Exempt from the Right of Withdrawal**

Drawing on European Union directives specifically Directive 2011/83/EU on consumer rights as well as comparative consumer protection legislation, several categories of contracts are excluded from the right of withdrawal, including:

- Service contracts where performance has begun, with the consumer's consent, before the expiry of the withdrawal period (typically seven days in EU law).
- Contracts for the supply of goods manufactured according to the consumer's specifications or clearly personalized to their preferences.
- Contracts for the supply of goods or services whose prices depend on fluctuations in financial markets, beyond the control of the trader¹⁸.
- Contracts for the supply of audio or video recordings or computer software, once the seal has been broken by the consumer¹⁹.

These exclusions are justified by the nature of the obligations involved or by considerations of fairness and practicality, as the exercise of withdrawal in such contexts would impose disproportionate burdens on the trader or undermine legitimate commercial expectations.

2.1.3 The Withdrawal Period (The Temporal Condition)

The European Directive No. 2011/83/EU on Consumer Rights ²⁰established a standard withdrawal period of fourteen (14) days, seeking to harmonize consumer protection rules across Member States and enhance legal certainty in commercial transactions. This period allows the consumer sufficient time to assess the good or service received and to decide without undue pressure whether to maintain or withdraw from the contract.

In contrast, the Algerian legislator, through Article 11 of Executive Decree No. 15-114 ²¹concerning the conditions and modalities of offers in consumer credit operations, provides for a withdrawal period of eight (8) working days from the date of the contract's signature. The decree specifies that the exercise of this right must comply with the applicable legislative and regulatory provisions.

This shorter period, compared with the European standard, reflects the legislator's attempt to balance consumer protection with commercial stability, ensuring that withdrawal does not excessively disrupt market transactions while still preserving the consumer's freedom of reconsideration.

Paragraph 2 of Article 12 of Executive Decree No. 15-114, which regulates the conditions and modalities of offers in the field of consumer credit, provides that the sales contract shall not become effective in two specific cases, namely:

- When the borrower fails to notify the seller of the allocation of the credit within eight (8) working days from the date on which he was informed of the approval to obtain the credit.
- When the borrower exercises his right of withdrawal within the legally prescribed period.

This provision clearly shows that the Algerian legislator has made the effectiveness of the sales contract conditional upon the fulfilment of two cumulative conditions one relating to the financing of the transaction and the other to the consumer's will to maintain the contract, It thus reflects the legislator's intent to ensure genuine protection for the consumer-borrower by allowing withdrawal without any binding contractual effect as long as the consumer has not confirmed the credit or the withdrawal period has not expired.

Accordingly, this article enshrines the principle of the legal suspension of the contract's enforceability until these conditions are met, thereby ensuring a balance between consumer protection and the stability of contractual relations.

Article 14(1) of the same Executive Decree establishes a period of seven (7) working days for exercising the right of withdrawal in cases where the product is sold at the consumer's residence, regardless of the date of delivery or performance of the service. Accordingly, the Executive Decree sets specific time limits for exercising the right of withdrawal in consumer credit contracts, taking into account the nature of the contract and the method of sale.

It is worth noting that the determination of the withdrawal period is not limited to Executive Decree No. 15-114 alone Other legislative texts also provide for such periods, including:

- The Insurance Law: Article 90 bis grants a period of two (2) months for exercising the right of withdrawal.
- The Law on Money and Credit: Article 119 bis 1 establishes a period of eight (8) days from the date of signing the contract for exercising the right of withdrawal.
- The Law on Electronic Commerce: Article 11 requires the electronic supplier to include in the commercial offer the conditions and time limits for withdrawal, granting the consumer the right to exercise this right within the specified period.

From these provisions, it is evident that the Algerian legislator has taken care to guarantee the consumer's right of withdrawal across various types of consumer contracts, establishing clear and specific deadlines to ensure the effective protection of consumer rights.

It follows from the foregoing that the consumer's exercise of the right of withdrawal is not absolute, but rather subject to a set of constraints established by the legislator to strike a balance between the consumer's interest in protecting his or her free will and the supplier's interest in maintaining transactional stability, The personal criterion confines this right exclusively to the consumer, as the weaker party in the contractual relationship. The objective criterion limits the scope of withdrawal to certain categories of contracts particularly those concluded at a distance while excluding specific types such as customized products or contracts related to financial services subject to market fluctuations, The temporal criterion, in turn, establishes precise time limits for exercising the right, varying according to the nature of the contract: eight (8) days for consumer credit contracts, seven (7) days for door-to-door sales, and up to two (2) months for insurance contracts. Collectively, these three criteria

constitute the legal framework that ensures the effective operation of the right of withdrawal while preserving the stability of contractual relations.

2.2 The Manner in Which the Consumer Exercises the Right of Withdrawal

The manner in which the consumer exercises the right of withdrawal is determined by the means through which this right is invoked and by identifying the party bearing the burden of proof.

2.2.1 Means of Exercising the Right of Withdrawal

Although the exercise of the right of withdrawal is not subject to any specific legal formality, in practice it is advisable for the consumer to express the withdrawal in a formal and verifiable manner in order to avoid disputes with the professional. Accordingly, the consumer is recommended to send a registered letter with acknowledgment of receipt clearly stating the intention to withdraw from the contract²².

It is also worth noting that the consumer's ability to exercise this right whether explicitly or implicitly depends on having been duly informed of the existence and conditions of such a right. A lack of awareness regarding the right of withdrawal or its applicable rules may prevent the consumer from effectively exercising it. Several legislative instruments, including the European directives, have emphasized the importance of informing consumers of their right of withdrawal²³.

2.2.2- The Burden of Proving the Exercise of the Right of Withdrawal

The burden of proving that the consumer has exercised the right of withdrawal rests upon the consumer, in accordance with the general evidentiary principle that "the burden of proof lies with the claimant." This proof may be established through any admissible means of evidence, particularly where the legislator has not prescribed a specific written form for exercising this right²⁴.

From the foregoing, it becomes evident that while the legislator did not impose a formal procedure for exercising the right of withdrawal, practical considerations dictate that the consumer should express such withdrawal through a formal and verifiable means to ensure its proof in case of dispute. Consequently, the burden of proof remains with the consumer, consistent with general evidentiary principles, making the consumer's awareness of both the existence of this right and the manner of its exercise a decisive factor in ensuring its effective implementation.

3. Effects of the Consumer's Withdrawal

The exercise of the consumer's right of withdrawal does not merely result in the termination of the contractual relationship; it also gives rise to reciprocal obligations incumbent upon both contracting parties, thereby ensuring a balance between the protection of the consumer and the safeguarding of the professional's rights.

Upon withdrawal, the consumer, on the one hand, assumes certain obligations, including the duty to return what has been received under the contract and to comply with the legally

prescribed time limits, On the other hand, the professional or supplier becomes bound to reimburse the amounts received and to facilitate the consumer's effective exercise of the right of withdrawal, in accordance with the duties of protection and good faith imposed by law.

3.1 Consumer Obligations

The consumer's withdrawal from the contract entails an obligation to return the product to the supplier in the same condition in which it was received, without having been used, damaged, or altered. When exercising this right, the consumer is not required to pay any penalties or charges, except for the costs related to returning the product. However, this obligation is waived in two specific cases²⁵:

- When the supplier expressly waives such costs, a practice often adopted by companies for promotional or marketing purposes.
- When the supplier fails to inform the consumer of their right of withdrawal.

Accordingly, the consumer bears no compensation or financial burden upon withdrawal, other than the reasonable expenses directly resulting from the exercise of this right, such as shipping or delivery costs incurred in returning the product to the seller.

It follows that the consumer's obligations upon withdrawal reflect a clear balance between their right to disengage from the contract and their duty to uphold contractual stability, These obligations include returning the product in its original condition, complying with the legally prescribed withdrawal period, and assuming responsibility in cases of negligence or damage. Collectively, these duties form an integral part of the legislative mechanism for consumer protection and underscore the legislator's intent to ensure fairness and integrity in post-withdrawal transactions.

3.2 Obligations of the Professional (Supplier or Service Provider)

When the consumer exercises the right of withdrawal as provided under Law No. 18-09 on Consumer Protection, the professional whether a seller or service provider becomes subject to a set of precise legal obligations reflecting the legislator's commitment to ensuring effective consumer protection and restoring contractual balance²⁶.

Foremost among these obligations is the duty to reimburse the consumer in full for any amounts paid, without imposing any additional financial charges, This reflects the principle that the exercise of the right of withdrawal should not result in any economic burden for the consumer, thereby preserving the protective nature of this legal mechanism.

In addition, the professional bears the costs of returning the product, unless otherwise stipulated, which reinforces the effectiveness of this right established to protect the weaker contracting party²⁷, The professional is also under a strict obligation to clearly inform the consumer of the terms, time limits, and procedures for exercising the right of withdrawal particularly in cases involving electronic or distance contracts so that the consumer may exercise this right in full awareness.

Finally, any breach by the professional, such as refusal to refund the price or failure to respect the consumer's statutory rights, exposes them to legal liability, This may include

claims for damages or the imposition of monetary penalties in accordance with the provisions of the Consumer Protection Law.

From the foregoing, it can be concluded that the right of withdrawal constitutes one of the most fundamental rights granted to the consumer, as it allows them to cancel an order for goods or services without incurring any penalty or compensation. Consumer protection laws establish a specific period during which the consumer may exercise this right, usually starting from the date of receipt of the goods or services. During this period, the seller is obliged to refund all amounts paid by the consumer, including shipping fees, without undue delay.

It thus becomes evident that the Algerian legislator has imposed on the professional several essential obligations when the consumer exercises the right of withdrawal, most notably: the reimbursement of the full price, the assumption of the costs of returning the product, and the duty to provide prior information regarding the conditions and time limits of withdrawal. This legal framework aims to ensure the effective protection of the consumer and to maintain a fair balance within the contractual relationship.

Conclusion:

The study demonstrates that the consumer's right of withdrawal constitutes a fundamental pillar of the Algerian consumer protection framework, reflecting a legislative approach aimed at ensuring balance in contractual relationships between consumers and suppliers and protecting the weaker party in such relationships. The analysis has shown that this right possesses distinct characteristics that differentiate it from other legal mechanisms such as annulment and rescission and is exercised under precise safeguards including personal, objective, and temporal criteria to balance the consumer's freedom to withdraw with the supplier's interest in contractual stability.

Regarding the findings, the study revealed that the effectiveness of this right largely depends on the consumer's awareness and understanding of the conditions and procedures for exercising it, as well as the professional's strict compliance with their obligations, including full reimbursement, bearing the cost of product returns, and providing clear information to the consumer. The consistency of these legal safeguards and the precise determination of withdrawal periods contribute to achieving the primary legislative objective of protecting the consumer's will and ensuring the integrity of commercial transactions.

Based on these findings, several recommendations can be made to further strengthen consumer protection:

1. Enhance awareness campaigns regarding consumers' right of withdrawal and the mechanisms for exercising it.
2. Require suppliers to provide explicit and clear disclosure of the conditions and time limits for withdrawal in all contracts, including electronic contracts.
3. Develop monitoring mechanisms to ensure professionals comply with their legal obligations and apply appropriate sanctions in cases of non-compliance.
4. Consider expanding the scope of the right of withdrawal to cover additional consumer contracts, while maintaining a balance between consumer protection and transactional stability.

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It is worth noting that the Algerian legislator has placed the costs of returning goods on the electronic supplier under Law No. 18-05 on Electronic Commerce, in cases where the electronic consumer has received goods that do not conform to the order or that are defective. This is explicitly provided for in Article 23 of the said law, which states: "The costs of returning the goods shall be borne by the electronic supplier".

26 Article 19(3) of Law No. 18-09 on Consumer Protection.

27 In this regard, Article 23 of the Electronic Commerce Law stipulates that the amounts paid must be reimbursed within fifteen (15) days from the date on which the professional receives the returned product. However, the provision does not address the situation in which the professional delays or fails to refund the price within the prescribed period. Consequently, this omission necessitates recourse to the general rules of civil law governing contractual liability and unjust enrichment to determine the legal consequences of such delay.