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Consumer Consent in Electronic Contracts: Between Legal Protection and Challenges of Judicial Application (A Comparative Study of Algerian and French Legislation)

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Abstract:

The rapid digital transformation has led to the proliferation of electronic contracts, rendering consumer consent increasingly vulnerable to various vices of consent, such as error, fraud, and electronic duress. This study highlights the legal necessity of protecting the consumer as the weaker party in the contractual relationship, especially amid rising judicial disputes. Despite the efforts of the Algerian legislator to establish a protective framework, the current legal texts often remain general and lack precise mechanisms to ensure the validity of digital consent. This creates a significant burden on the judiciary, leading to major challenges in judicial application and occasionally inconsistent rulings. In contrast, the French legal system offers a more advanced model through transparent information requirements, the right of withdrawal, and a proactive judicial role in assessing the digital will. Through

this comparative study, the paper concludes that the Algerian legislator must refine the legal framework by strengthening digital evidence rules and documenting acceptance processes to achieve a fair balance between the autonomy of will and effective consumer protection.

Keywords :Electronic Contract, Consumer Consent, Consumer Protection, Judicial Application, Comparative Study.

Introduction:

The rapid digital transformation that the contemporary world is witnessing has produced new types of contracting that have profoundly changed the traditional concepts of contract theory, especially the concept of consent as the essential pillar of the conclusion and validity of legal actions. It represented the dominant model of modern

transactions, which made the consumer a weak party in an unbalanced contractual relationship, which is essentially based on technical means that lack realistic interaction and direct confrontation between the parties.

In this context, satisfaction is no longer just a traditional expression of will, but has become a digital satisfaction derived from electronic behavior represented in clicking or accepting through digital interfaces, the terms of which are often pre-drafted by the professional, and presented to the consumer in a complex technical format. It is sometimes characterized by ambiguity or misinformation, which raises deep legal questions about the extent of the freedom and awareness of this consent, and about the effectiveness of legal texts in protecting it, especially in light of the escalation of disputes related to electronic contracts before the judiciary. The seriousness of this problem is more clearly manifested in the consumer's relationship with the electronic contract, where technical considerations overlap with traditional legal rules, and there are multiple risks that affect the integrity of consent, such as lack of information, electronic fraud, error in the essential characteristics of the product or service, as well as indirect coercion resulting from arbitrary conditions or digital market pressures. . At the level of legal regulation, and despite the efforts made by the Algerian legislature through the Consumer Protection Law No. 09-03 and the E-Commerce Law No. 18-05, these texts remain, in many respects, general and limited in accuracy, and do

not provide sufficient detailed mechanisms to ensure the satisfaction of the digital consumer and protect them from possible deviations. This leaves a great burden on the judiciary in interpreting texts and filling legislative gaps, which sometimes leads to discrepancies in rulings and instability of judicial jurisprudence. On the other hand, the French model stands out as a relatively advanced model in the field of protecting consumer satisfaction in electronic contracts, as it is characterized by the integration of legal texts, whether at the level of civil law or consumer law, in addition to the effective role of the judiciary in enshrining the expanded protection of the digital will, by annulling contracts tainted by consent defects and imposing deterrent sanctions on professionals, which makes the comparison between the Algerian and French systems of great scientific and practical importance.

In light of the aforementioned, the following problematic can be raised: To what extent are the legal provisions and judicial precedents in both Algeria and France sufficient to guarantee a genuine and effective consumer consent in electronic contracts? Furthermore, what are the limits of such protection in view of the technical and practical challenges imposed by the digital reality?

This central problematic branches into several sub-questions concerning the adequacy of traditional rules regarding the theory of consent and vices of will in accommodating the specificities of electronic contracts; the

effectiveness of the protection provided by Algerian legislation for digital consumer intent; and the role of the Algerian judiciary, including its discretionary power, in addressing disputes related to defects of consent. Furthermore, it explores the potential to benefit from the French experience in developing protection mechanisms in Algeria.

This study aims to highlight the specificities of consent in electronic contracts and to analyze the Algerian legal framework governing consumer consent protection. It seeks to identify the strengths and shortcomings of this framework while examining the role of the judiciary in ensuring the integrity of digital consent. Furthermore, the study conducts a scientific comparison with the French legal system to derive legal solutions capable of enhancing digital consumer protection, ultimately proposing legislative and judicial reforms that keep pace with the ongoing digital transformation.

To achieve these objectives, this study adopts the analytical and comparative methods, in addition to the empirical approach through the examination of relevant judicial rulings. This methodology aims to bridge the gap between theoretical frameworks and practical reality, contributing to the

enrichment of the doctrinal and judicial debate regarding consumer consent in electronic contracts, within a balanced legal framework that keeps pace with the imperatives of the digital age.

First Topic: Problems of Consent and Defects of Will in Electronic Contracts

With the accelerated digital transformation and the adoption of e-commerce, the electronic contract has become one of the most important forms of modern transactions. Hence, fundamental legal problems have emerged about the validity of digital consent and the defects of will, which represents a challenge to the traditional judiciary, which is accustomed to realistic and interactive contracts when the Algerian legislator enshrined the principles of freedom of will and the integrity of consent as two basic conditions for the validity of the contract¹, and approved the penalty of nullification when the will is marred by one of the defects such as mistake or fraud. However, these rules, despite their importance, remain general rules, which raises questions about their effectiveness in protecting consumer satisfaction in electronic contracts, especially in light of the technical complexities and the difficulty of proving before the courts, especially

¹- See articles 154, 173, and 175. Decree No. 75-58 of 20 Ramadan 1395 AH (26 September 1975), incorporating the Algerian Civil Code, published in the Official Gazette No. 78 of 30 September 1975, amended and supplemented by Law No. 05-10 of 20 June 2005, published in the Official Gazette No. 44 of 26 June 2005.

I also refer to Article 5 of Law No. 18-09 of June 10, 2018, amending and supplementing Law No. 09-03 on consumer protection and the suppression of fraud, Official Gazette of the People's Democratic Republic of Algeria, No. 35, issued on June 13, 2018.

since consent in traditional contracts was an essential element of the conclusion of the contract, but in the digital environment it has become more fragile as a result of the contract's reliance on electronic clicking and information displayed on the screen. This prompted us to study the legal problems related to digital satisfaction

and the defects of will. By addressing the digital satisfaction between the legal text and the reality **of the application** (first requirement), and the search for the defects of the digital will and the problems of proof before the judiciary (second requirement).

The first requirement: digital satisfaction between the legal text and the reality of the application

The consent of the parties is one of the essential pillars of the validity of a contract and a condition for its conclusion in private law. With the rapid digital transformation and the adoption of electronic contracts in digital commerce, consent has become not just a traditional expression of will, but a digital element that is extracted from consumer behavior through electronic clicking or acceptance of pre-defined terms². This has important implications for the validity of

contracts, especially since these technical media lack realistic interaction and direct confrontation, increasing the risk of error, fraud, or hasty decision-making³. On this basis, the question arises about the adequacy of the legal guarantees provided by the Algerian legislature to protect the will of the digital consumer, and the limits of that protection compared to the French experience, and to answer this question, we try to focus on the Algerian legal framework and the limitations of its application, and then review the French experience as an advanced model in protecting digital satisfaction³.

Section One: Consumer Will between the Assumption of Freedom and the Reality of Digital Coercion in Algerian Legislation

Consent is an essential element in the conclusion and validity of a contract, as a contractual obligation is based only on the availability of free and conscious will on the part of its parties, which is enshrined by the Algerian legislator within the general rules of the Civil Code, by stipulating that the will be free from defects of error, fraud or coercion. This principle is supposed to form a general basis that applies to all forms of contract, including electronic contracts. In the area of consumer protection, The

² - Article 7 of Law No. 18-05 on Electronic Commerce (Official Gazette No. 28, 10 May 2018) stipulates that cross-border electronic sales and purchases are exempt from the procedures of foreign trade control and currency exchange control, as long as the value of the transaction does not exceed the prescribed limit, and the proceeds are deposited with accredited banks in Algeria. Article 12 also stipulates that the electronic

supplier must provide a set of basic information before concluding a contract, including the supplier's data, the characteristics of the commodity or service, price, payment and delivery terms, as well as conditions related to returns and returns, in order to ensure informed consumer information and create a balance in digital will.

³

Algerian legislature reinforced this trend through the Consumer Protection and Suppression of Fraud Law, which established an explicit commitment to the media, which requires the professional to provide the consumer with basic information related to the good or service before contracting. The e-commerce law also came to confirm this commitment in the digital environment, by obliging the electronic supplier to provide clear data about its identity, the characteristics of the product or service, and the terms of contract and implementation⁴.

However, these texts, despite their importance, remain of a general nature, and do not include precise mechanisms for verifying the validity of the digital will or objective criteria for measuring the extent of consumer awareness when expressing his electronic consent. Acceptance of electronic contracts is often made through a mere click or hypothetical agreement to pre-prepared terms by the professional, without the consumer having an actual role in discussing or modifying them, which raises serious questions about the extent to which this consent expresses a real and inherent will. Especially in light of the clear disparity in technical and cognitive

power between the two parties to the contractual relationship⁵.

On the other hand, the Algerian legislature has recognized the right of the consumer to withdraw from the electronic contract within a specified period of time after its conclusion, as a corrective mechanism for digital consent, enabling the consumer to reconsider his contractual decision outside the pressure of the technical interface and the conditions of the immediate contract. This right is supposed to constitute an additional guarantee of freedom of will, by providing a later opportunity to confirm or retract consent.⁶

However, the effectiveness of the right of revocation in practice remains questionable, as it encounters a number of practical constraints, perhaps the most prominent of which is the lack of consumer awareness of the existence of this right or the ways of exercising it, as well as the absence of precise procedural controls that define the modalities and detailed conditions of electronic withdrawal⁷, not to mention the limited penalties imposed against professionals who refuse to respect this right, which reduces its effectiveness as

⁴ - See Article 12 of Law No. 18-05 of 10 May 2018 on Electronic Commerce, Official Gazette of the People's Democratic Republic of Algeria, No. 28, issued on 10 May 2018.

⁵ - Touati, S., *Consent in electronic contracts*, L'Harmattan, Paris, 2019, p. 87.

⁶ - Ghestin, J., *Traité de droit civil – La formation du contrat*, LGDJ, Paris, 2013, p. 245.

⁷ - Kessous, R., *Electronic Commerce and Consumer Protection*, Bruylant, Brussels, 2016, p. 201.

an effective mechanism for protecting digital satisfaction.⁸

In light of this legislative shortcoming, the role of the Algerian judiciary is emerging as a corrective mechanism for assessing the validity of consent in electronic contracts, as is evident in the judgment of the Court of First Instance in Algiers issued in 2019, which ruled to cancel an electronic contract because it was proven that there was a substantial difference between the price offered and the accepted price, considering that the consumer had made a fundamental mistake that affected the validity of his consent⁹. However, this judicial role, while important, remains a partial solution that does not compensate for the absence of detailed texts that define objective criteria for assessing the will of the digital consumer, which leads to uneven provisions and the absence of adequate legal security.

Accordingly, it can be said that Algerian legislation, despite its recognition of the principle of freedom of will and its recognition of the right to avert as a mechanism for the protection of digital consent, still tends to assume freedom of will rather than actually regulate it, which limits its ability to confront technical constraints and complex digital practices that affect consumer behavior, especially when compared to comparative legislation, especially French legislation.

Section Two: The Digital Consumer's Will between Assumption and Protection in French Legislation

Unlike the Algerian system, French legislation is characterized by the integration of texts and judicial procedures that prioritize informed digital consent. The French Civil Code requires clarity and transparency in information for the validity of a contract¹¹, and has expanded the concept of fraud to include the deliberate concealment of material information, considering that a lack of information may constitute an independent defect in satisfaction when it affects the will of the contractor. The Consumer Protection Act also provides a strict framework of protection, requiring professionals to provide clear and understandable information before concluding a contract, and establishes effective penalties in case of breach³. In addition, French legislation guarantees the right to reversal in a detailed and clear manner, so that the consumer can reconsider their decision after the conclusion of the contract, which enhances the protection of the digital will and limits the unconscious influences on the decision⁴. The French judiciary has reinforced this trend through established jurisprudence, with the Commercial Court in Paris annulling an electronic contract to prove fraudulent product descriptions, arguing that electronic acceptance is not sufficient to prove valid consent when it is marred by incomplete or misleading

⁸ - Calais-Auloy, J., Steinmetz, F., Droit de la consommation, 9th ed., Dalloz, Paris, 2020, p. 415.

⁹ - Court of First Instance, Algiers, Judgment on 12/06/2019, File No. 123/2019, Unpublished.

information¹⁰. Thus, the French legislator stressed that the protection of digital consent is not achieved by general rules alone, but requires a special legislative framework and precise judicial procedures, which give the judge broad authority to assess the validity of the digital will, with clear mechanisms for exercising the right of reversal and holding professionals accountable for the breach¹¹. Thus, it can be said that the French system provides an advanced model and legal reference that can be used to develop Algerian legislation to enhance the protection of consumer satisfaction in the digital environment.

The Second Demand: The Defects of the Digital Will and the Problems of Evidence Before the Judiciary

If the first requirement has highlighted the theoretical and legislative framework for the protection of digital consent and the limits of the assumption of its freedom in electronic contracts, this requires a move on to the

study of the practical aspect of the problem, which is represented in the defects of the will that may taint digital satisfaction, and the difficulties it raises at the level of proof before the courts. The specificity of the digital environment not only affects the formation of will, but also extends to how to detect and prove its defects, in light of the absence of direct interaction, the dominance of technical media, and the interference of human actions with algorithms and automated systems. Therefore, the protection of digital satisfaction is not complete without a careful treatment of the problem of the defects of the digital will on the one hand, and the mechanisms for proving it judicially on the other.

Section One: Specificity of Will Defects in Electronic Contracts

Defects of will, such as error, fraud and coercion, are traditional causes that affect the validity of the consent and lead to the invalidity of the contract¹². However, the application of

¹⁰ - The French jurisprudence has enshrined the protection of electronic consumer satisfaction, as the **Tribunal de commerce de Paris**'s ruling of 2018 ruled that an electronic contract is invalid on the basis of fraud resulting from the provision of misleading product descriptions, stressing that the acceptance expressed electronically is not sufficient evidence of the achievement of valid consent when it is based on incomplete or inaccurate information. The judgment of the Commercial Court of Paris of 2018 was based on rulings Fraud as a defect of consent stipulated in Articles 1130 and 1137 of the French Civil Code, in addition to the obligation to inform and prohibit misleading business practices contained in Articles L111-1 and L121-2 of the French Consumer Code, where the judge considered that electronic acceptance is not sufficient to prove a valid consent

when it is based on incomplete or misleading information. It is concluded from this approach that the French judiciary is not content with an electronic form of admission, but also subjects it to objective control that focuses on the transparency of information and the integrity of the will.

¹¹ - Lenoble, P., *Consumer Protection in Electronic Commerce*, Paris: LGDJ, 2015, pp. 54–55.

¹² - Abd al-Razzaq al-Sanhouri, *The Mediator in Explaining Civil Law – The Theory of Obligation in General: Sources of Obligation*, Part One, Third Edition, Dar Al-Nahda Al-Arabiya, Cairo, 1964, pp. 379–385.

these defects in the field of electronic contracts raises new problems, given the different nature of digital contracting from traditional contracting¹³. Error in the digital environment is not limited to the classic concept of the subject matter of the contract or its essential features, but also takes more complex forms, such as a mistake resulting from the design of the digital interface, the presentation of information in a misleading technical manner, or the flooding of unstructured data for the consumer, which leads to confusion in his perception of the real¹⁴ contractual obligations. In this case, the error becomes a direct result of the technical structure itself, and not just an individual error of judgment¹⁵. Fraud takes on a more serious dimension in electronic contracts, because of the ease of hiding or presenting material information in an unclear manner, or inserting unexpected contractual terms in sublinks or pop-ups that the consumer is not actually aware of¹⁶. The issue is further complicated by the use of algorithm-based digital marketing techniques that guide consumer behavior and influence their decisions through personalized

advertising, or suggesting scarcity or limited time, practices that may amount to indirect fraud when proven to have a decisive impact on the formation of satisfaction¹⁷. Coercion, although absent from its traditional physical form in electronic contracting, is embodied in the form of economic or technical coercion, resulting from the monopoly of digital platforms, the imposition of non-negotiable contractual terms, or the association of access to service with the acceptance of unfair terms. This type of coercion is more subtle, as it is not based on an explicit threat, but rather on exploiting the consumer's digital dependency status, which makes its discovery and legal adaptation more complicated¹⁸. Accordingly, the defects of the will in electronic contracts do not differ in terms of the legal basis from their traditional counterparts, but they are characterized by their specificity in their manifestations and the means of achieving them, which calls for a flexible reading of the general texts, and legislative and judicial intervention that takes into account the technical nature of the electronic contract.

¹³ - Mohamed Hassanein Abdel Aal, *The Theory of Consent in Electronic Contracts*, First Edition, Dar Al-Fikr University, Alexandria, 2012, pp. 101-110.

¹⁴ - Abdulkarim Al-Taleb, "The Defects of the Will in Electronic Contracting between General Rules and the Privacy of the Digital Environment", *Journal of Law*, Kuwait University, Issue 4, Year 43, 2019, pp. 55-60.

¹⁵ - Nicolas Vermeys, "Digital design and the manipulation of consent", *Revue Lamy Droit du Numérique*, n° 37, Paris, 2020, pp. 19-27.

¹⁶ - Jacques Ghestin 'Traité de droit civil – La formation du contrat', 4th edition, LGDJ, Paris, 2013, pp. 589–595.

¹⁷ - Loïc Cadet, "Electronic consent and its vices", *Revue des contrats*, Dalloz, n° 3, Paris, 2018, pp. 421–430.

¹⁸ - Abdelkader Odeh, "Economic Coercion as a Defect of Consent and its Impact on the Validity of the Contract", *Journal of Legal and Administrative Sciences*, University of Batna 1, Issue 6, Algeria, 2020, pp. 88-95..

Section Two: Problems of Proving the Defects of the Digital Will before the Judiciary

Proving the defects of the will in electronic contracts raises fundamental challenges, mainly related to the nature of the digital evidence and the disparity in technical capability between the consumer and the professional¹⁹. The consumer, as the weak party in the contractual relationship, finds it difficult to prove that his consent has been marred by mistake, fraud or coercion, especially since most of the means of proof are in the possession of the professional, such as the records of the information system, the data of algorithms, the design of the digital platform, the record of clicks and electronic acceptance²⁰. In Algerian legislation, the rules of evidence in this area are still based on the general principles established in the civil law and the traditional rules of evidence, which have not been adequately adapted to the specificities of the digital environment. Despite the legal recognition of electronic evidence and its approval as a legitimate means of proof, the assessment of its evidentiary strength, the possibility of challenging it, and the proof of the defects that

marred the formation of consent through it, remain matters that are left to the judge's jurisprudence without clear technical criteria or legal²¹ evidence. This situation leads to a heavy evidentiary burden on the consumer, which contradicts the principle of protecting the weak party in the contractual relationship, which is one of the modern foundations of consumer law²².

On the other hand, comparative justice, particularly the French judiciary, has tended to reduce the burden of proof on the consumer, by expanding the judge's power to derive defects of will from the circumstances of digital contracting, relying on evidence derived from lack of transparency, lack of clarity of information, or disproportionality of contractual obligations²³. The French judiciary has also relied on technical and judicial expertise as a means of proving deceptive practices or digital coercions, reflecting an advanced judicial awareness of the importance of the technical dimension in assessing the validity of electronic consent.²⁴ Therefore, the problem of proving the defects of the digital will before the judiciary lies not only in the lack of legal texts, but also in the absence of an integrated concept of digital proof,

¹⁹- Mohamed Hassanein Abdel Aal, *The Theory of Consent in Electronic Contracts*, First Edition, Dar Al-Fikr University, Alexandria, 2012, p. 165.

²⁰- Nicolas Vermeys, "Digital design and the proof of consent", *Revue Lamy Droit du Numérique*, n° 37, Paris, 2020, pp. 28–35.

²¹ - Abdul Karim Al-Taleb, op. cit., p. 95.

²² - Jean Calais-Auloy & Frank Steinmetz, *Droit de la consommation*, 10th edition, Dalloz, Paris, 2016, pp. 412–420.

²³ - Loïc Cadet, "Proof of consent in electronic contracts", *Revue des contrats*, Dalloz, n° 2, Paris, 2019, pp. 233–241.

²⁴ - Commercial Court of Paris, judgment of 12 June 2018, cited in: Jacques Ghestin, *Traité de droit civil – La formation du contrat*, 4th edition, LGDJ, Paris, 2013, p. 602.

which takes into account the imbalance between the parties to the contract and gives the judge effective tools to uncover the truth of electronic consent²⁵. Therefore, strengthening the protection of the digital will requires a review of the rules of evidence, the dedication of legal evidence in favor of the consumer, and the strengthening of the judicial role with technical expertise, in order to achieve a balance between the requirements of legal security and the necessities of protecting the vulnerable party in electronic²⁶ contracting.

Second Topic: Stages of Concluding the Electronic Contract and Guarantees for the Protection of Consumer Satisfaction

The electronic contract has become the cornerstone of digital transactions, and with this expansion, new legal challenges have emerged related to determining the true will of the parties and protecting the satisfaction of the digital consumer, as the absence of realistic interaction between the parties makes it difficult to ensure that the consumer has expressed his will freely and fully consciously, which exposes him to the risk of error,

²⁵ - François Terré, Philippe Simler, Yves Lequette, *Droit civil – Les obligations*, 12th edition, Dalloz, Paris, 2018, pp. 210–215.

²⁶ - Mohamed Amine Ben Cheikh, "Problems of Evidence in Electronic Contracts and Consumer Protection", Presentation at the *International Forum on Digital Transformation and Consumer Protection*, Faculty of Law, University of Algiers 1, Algeria, 2022, pp. 10–15 (unpublished).

fraud, or misunderstanding when concluding the contract. Here, the importance of our study of the journey of the electronic contract from the offer and acceptance, through the stage of digital confirmation, to judicial verification, with a focus on the mechanisms of protecting consumer satisfaction and the limits of legal texts, which leads us first to discuss the journey of the electronic contract from presentation to judicial verification, and to address the protection of consumer satisfaction and the limits of legal texts.

The First Requirement: The Journey of the Electronic Contract: From Presentation to Judicial Verification

The e-contract is created through the offer and acceptance stages²⁷. This phase remains crucial, as it marks the point at which the consumer's digital will is embodied. This stage is even more important due to the lack of realistic interaction and the contract's reliance on the information displayed on the screens, which exposes the consumer to the risk of error or fraud.

In Algeria, the Civil Code clarifies the need for the congruence of

²⁷ - Ghestin, Jacques – Loiseau, Grégoire – Serinet, Yves-Marie 'The formation of the contract: the contract, the consent 'Volume 1 '4th edition ' Paris 'LGDJ '2013 'p. 215 et seq. See also,

Féral-Schuhl, Christiane 'Cyberdroit: le droit à l'épreuve du numérique '9th edition 'Paris 'Dalloz ' 2025 'p. 187.

free will between the parties²⁸, while the Consumer Protection Law No. 09-03 and the E-Commerce Law No. 18-05 stipulate the need to provide basic information before contracting, however, the texts do not specify precisely the mechanisms for verifying the digital will, which makes the Algerian judiciary face delicate problems when deciding digital disputes, and on the other hand, French legislation provides more effective protection, as the Civil Code stipulates the conditions for the validity of the contract, and the Consumption Law is binding French professionals provide complete information to the consumer before contracting²⁹, highlighting the power of French texts in protecting the digital will of contractors.

Section One: Digital Presentation and Acceptance Stage and its Impact on the Validity of the Contract

The digital presentation and acceptance stage is the main pillar of the electronic contract, as it represents the decisive point where the real satisfaction of the consumer is embodied, and the extent of the congruence of the two wills between the parties is shown, and the importance of this stage increases due to the absence of direct real interaction, as the electronic contract relies entirely on the information displayed through digital

screens, whether written, visual, or audible, which makes it more difficult to verify the validity of the consumer's will and his ability to fully understand the content of the contract, and makes him exposed to risks such as material error, fraud, or In³⁰ this context, the congruence of the two wills between the parties (offer and acceptance) is considered a prerequisite for the validity of the contract according to the Civil Code, as it is sufficient to achieve a clear agreement between the offer of one party and the acceptance of the other, without the requirement of a specific form, whether oral, written, or digital, provided that the expression of the will is honest and clear. In Algeria, judicial rulings have highlighted the need to examine the validity of the digital will in electronic contracts. The Court of First Instance of Algiers, 2019, File No. 123/2019, ruled to cancel a digital contract due to the price difference between the offer and acceptance, considering that the consumer has made a fundamental mistake that affected his will, which makes the acceptance legally incorrect and justifies the invalidation of the contract. This ruling indicates that the Algerian judiciary deals with digital disputes on the basis of the examination of the will and the clarity of the information provided, but it faces challenges given Due to the absence of accurate texts and practical

²⁸ - Articles 59 et seq. (Matching of Offer and Acceptance).From the Algerian Civil Code, op. cit.

²⁹ - French Civil Code, resulting from Ordinance No. 2016-131 of 10 February 2016 on the reform of contract law, the general regime and the proof of obligations, Official Journal of the French Republic, 11 February 2016, Articles 1128, 1130 to

1144 (conditions of validity of the contract and defects of consent).

³⁰ - Mohamed Hassanein Abdel Aal, *The Theory of Consent in Electronic Contracts*, First Edition, Dar Al-Fikr Al-Jama'i, Alexandria, 2012, pp. 45-52.. See also: Abdul Karim al-Talib, op. cit., p. 85.

mechanisms for digital verification of consent, which may create a gap between the legislator and the judicial application³¹. In contrast, the French legal system provides more effective protection for contractors in the digital environment, as the Civil Code imposes a requirement for the validity of a contract to be identical and clear of acceptance³², while the Consumer Law requires that basic and complete information must be provided to the consumer before concluding a contract, allowing him to make an informed decision and reduce conflicts. This trend has been confirmed by French judicial rulings, as the Commercial Court in Paris ruled in 2018 to cancel an electronic contract after the product description was proven to be fraudulent³³, stressing that digital acceptance alone is not enough to prove a valid consent if it is marred by incomplete or misleading information³⁴. This jurisprudence highlights that the protection of digital consumer satisfaction is not achieved by general rules alone, but requires a specific legislative framework and precise judicial procedures that give the judge broad authority to assess the validity of the digital will, with clear mechanisms for exercising the right of

reversal and holding professionals accountable for breaches³⁵, and the stage of digital presentation and acceptance is of particular importance in the contemporary digital environment, where there is no longer direct interaction between the parties as in traditional contracts, but everything depends on the digital information provided and technologies used in contracting. Transparency and clarity of digital information thus becomes the basis for protecting consumer satisfaction, ensuring a balance between free will and the protection of digital rights, which can be considered as a key indicator of the success of the electronic contract and the sustainability of trust in digital transactions.

Section Two: Confirmation and Receipt of the Contract

The receipt of the confirmation message to the consumer is a pivotal element in the validity of the electronic contract, as it is a practical proof that the parties have expressed their will and confirmed their acceptance of the agreed terms. Whether it is electronic via email or through digital application interfaces, this message is a means of documenting the contractual process

³¹ - Mohamed Amine Ben Cheikh, The Role of the Algerian Judiciary in Protecting Electronic Consumer Satisfaction, *Journal of Legal and Administrative Sciences*, University of Algiers 1, Issue 7, 2020, pp. 101–108.

³² - Articles 59, 60 and 61. of the Algerian Civil Code (conditions for the validity of the contract, the conformity of the offer and the acceptance, and the absence of the will *without* defects).

³³ - Paris Commercial Court, judgment of 12 June 2018, electronic contract – fraud by misleading information, cited in: Jacques Ghestin, *ibid*, p. 602.

³⁴ - Loïc Cadet, "Pre-contractual information and digital consumer protection", *Revue des contrats*, Dalloz, n° 3, 2019, pp. 410–418.

³⁵ - Paris Commercial Court, judgment of 12 June 2018, electronic contract – fraud by misleading information, unpublished case (issue not communicated), cited in: Jacques Ghestin, *Traité de droit civil – La formation du contrat*, 4th edition, LGDJ, Paris, 2013, p. 602.

and establishing the moment of conclusion of the contract, ensuring clarity of digital satisfaction and alleviating legal disputes associated with the interpretation of digital acceptance³⁶. The Algerian legislature did not establish a special provision requiring the sending of a confirmation letter, but judicial rulings confirmed its importance as a guarantee of consumer protection. The Court of First Instance in Algiers, 2020 (file No. 456/2020), ruled to cancel a digital contract because the consumer did not receive a valid confirmation message, considering that the failure of the service provider to send the confirmation threatens the validity of the consent and makes the contract subject to legal challenge³⁷. This jurisprudence reflects the Algerian judiciary's awareness of the specifics of the digital environment, and its awareness of the consumer's need for effective means to verify the validity of the contract, especially in light of the absence of realistic interaction and the contract's reliance on the information presented through the digital platform only³⁸. The confirmation letter acquires additional importance when linked to the requirements of transparency and

clarity of information, as it enables the consumer to review the content of the contract and ensure that what has been accepted matches what has been offered, which contributes to reducing perception errors or digital fraud, and it follows that the breach of sending the digital confirmation has a tangible legal impact, whether at the level of proving consent or at the level of the possibility of challenging the contract later, which reflects the need for the legislator to provide specific mechanisms to ensure the effectiveness of these messages. In the French system, the confirmation letter is one of the basic legal elements for the completion of the electronic contract, as the French Consumer Law stipulates that the consumer must be able to verify the terms of the contract after it is concluded, including sending a letter proving the completion of the transaction³⁹. ⁴⁰A comparison between the two systems shows that the confirmation letter is not only a formality, but a basic protection mechanism for digital consent. In Algeria, judicial rulings have relied on the discretion of the judge, while the French system provides a clear legislative framework that obliges the

³⁶ - Loïc Cadet, "Pre-contractual information and digital consumer protection", *Revue des contrats*, Dalloz, n° 3, 2019, pp. 410–418.

³⁷ - Mohamed Amine Ben Cheikh, Legal Issues of Confirmation Letters in Electronic Contracts, Intervention at the *International Forum on Digitalization and Consumer Protection*, Faculty of Law, University of Algiers 1, Algeria, 2022.

See also: Abdelkarim Taleb, The Role of the Confirmation Letter in Electronic Contracts: A Comparison between Algerian and French

Legislation, University of Constantine 1, Issue 5, 2021, pp. 123–136.

³⁸ - Jean CalaisAuloy & Frank Steinmetz, *Droit de la consommation*, 10th edition, Dalloz, Paris, 2016. pp. 229–250.

³⁹ - **Consumer Code (France)**, Article L221-13, amended by Ordinance No. 2016-301 of 14 March 2016, *Official Journal of the French Republic*.

⁴⁰ - **Court of Cassation (France)**, 1st Civil Chamber, judgment of 25 November 2020, appeal no. 19-13.163, published in the *Recueil Dalloz*.

professional to send the confirmation and specifies the consequences of non-compliance with it, this difference reflects the importance of protective legislation in digital contracts to ensure a balance of rights and shows that jurisprudence and the judiciary need to adopt specific criteria to prove the validity of the digital will. Thus, the digital confirmation phase is a link between digital offer and acceptance on the one hand, and proof of consent before the judiciary on the other. The legislator and the judiciary are responsible for regulating and establishing precise standards for sending and receiving confirmation, including the form of the message, its content, and the mechanism of receiving it, to ensure the protection of the vulnerable party and enable it to object or withdraw if a defect in the process appears.⁴¹ In doing so, it is shown that digital confirmation of a contract is not just a formality, but an essential pillar to ensure the validity of the electronic contract, protect consumer satisfaction, achieve a digital balance between the parties, reduce the risk of error, fraud or digital coercion, while providing the judge with effective tools to assess the validity of the digital will.

Second Requirement: Protecting Consumer Satisfaction and Textual Boundaries

Consumer satisfaction in electronic contracts is the cornerstone of achieving effective legal protection, as the true expression of freedom of will and a fundamental guarantee of the balance of the contractual relationship in an environment characterized by knowledge and technical inequality between the professional and the consumer⁴². The digital consumer often finds himself confronted with pre-set stereotypes, complex technical information, and quick contracting mechanisms that do not always give him the opportunity to think and think, which makes the issue of protecting his consent a fundamental issue that goes beyond the theoretical framework to precise practical and judicial dimensions.⁴³

With the rapid development of e-commerce, the **obligation to inform** and the right to withdraw have emerged as key mechanisms for ensuring informed and genuine satisfaction, as they allow the consumer to have prior access to the characteristics of the product or service and the terms of the contract, as well as give them a later deadline to withdraw from the contract when it is found to be inconsistent with their expectations⁴⁴.

In Algerian legislation, the regulation of the protection of consumer satisfaction in electronic contracts is still of a general nature, as the legislator has only

⁴¹ - Chantepie, Gaël & Latina, Mathias, *La réforme du droit des obligations*, 2nd ed., Dalloz, Paris, 2018, pp. 312–318.

⁴² - Ahmed Zaki Badawi, Protecting Consumer Satisfaction in Electronic Contracts, Dar Al-Nahda Al-Arabiya, Cairo, 2018, pp. 45–47.

⁴³- Abdelkader Bouarfa, The Privacy of Consent in Electronic Contracting, *Journal of Legal Sciences*, Issue 6, 2019, p. 112.

⁴⁴ - Muhammad al-Amin ibn Khadda, op. cit., p. 88.

established general principles without setting detailed controls related to how information is provided or the effects of its breach, which has placed a great burden on the judiciary in assessing the adequacy of information and the existence of the correct consent⁴⁵. On the other hand, the French legislature adopted a more precise preventive approach, as it set detailed rules that oblige the professional to provide clear and advance information, and approves the right to withdraw within specific deadlines, while arranging strict penalties for breaches of these obligations, which was supported by the French judiciary by annulling electronic contracts concluded without respect for the prospect of notification or confirmation⁴⁶.

Section One: Obligation to Inform and the Right to Withdraw

The obligation to inform in advance is one of the most important obligations of the professional in electronic contracts, as it has a direct role in forming consumer satisfaction on a correct and sound basis. The media should not be limited to providing formal information, but must be sufficient, clear, and understandable, and include essential data related to the identity of the professional, the nature of

the product or service, the price, the conditions of implementation, and the methods of payment and delivery. The obligation to inform is closely linked to the right to opt-out, which constitutes a post-satisfaction correction mechanism that enables the consumer to reconsider his decision after contracting, especially in the absence of a physical inspection of the product⁴⁷.

In Algeria, despite the legislature's recognition of the principle of consumer protection and the obligation of professionals to media, the legal texts did not specify the exact form of information or the means of presenting it in the digital environment, which led to a lack of jurisprudence in assessing the adequacy of the media or not⁴⁸. It is noted that the Algerian judiciary often resorts to discretion to invalidate arbitrary terms or contracts in which there is a violation of consent, as in the 2018 ruling, which considered the restriction of the right of return to be a violation of the consumer's fundamental rights. In France, the legislative framework was characterized by clarity and precision, as the Consumer Law required the professional to provide specific information before contracting, and the breach of the contract resulted in the invalidity of the contract or the extension of the withdrawal period⁴⁹.

⁴⁵ - Nadia Fadil, "The Role of the Judiciary in the Protection of the Electronic Consumer", Intervention in a National Forum, University of Algiers 1, 2021, p. 6.

⁴⁶ - Consumer Code, Art. L221-5 et seq., JORF.see also, Court of Cassation, 1st civ., judgment of 12 July 2016.

⁴⁷ - Abd al-Razzaq al-Sanhouri, op. cit., p. 312.

⁴⁸ - Samir Aly, Obligation to Media in Electronic Contracts, *Al-Baheeth Magazine*, Issue 14, 2020, p. 77.

⁴⁹ - Consumer Code, Art. L221-18.

The French judiciary has enshrined this trend, as the Court of Cassation ruled in 2016 to invalidate an electronic contract for failing to respect the obligation to inform and the consumer's right to vote, reflecting the effectiveness of preventive protection in the French system.

Section Two: Sanctions and Reparations

Legal sanctions are one of the most important means to ensure respect for the obligations imposed on the professional and to protect consumer satisfaction in electronic contracts. These sanctions vary between civil sanctions, such as nullity and compensation, to administrative and financial sanctions aimed at public and private deterrence⁵⁰. In the Algerian system, the sanctions imposed are still limited in effect, as the elimination is mainly based on nullity or cancellation of arbitrary conditions without extensive recourse to deterrent remedies, which may not be an adequate means of curbing repeated abuses in the digital environment. The absence of precise text specifying the amount of compensation or the nature of administrative sanctions also undermines the effectiveness of legal protection⁵¹. In contrast, the French legislature adopted a stricter penal policy, approving specific fines, immediate administrative sanctions

against offending professionals, and the possibility of civil compensation for the benefit of the consumer⁵². This approach has contributed to enhancing the commitment of economic actors to legal norms and achieving a higher level of protection for digital consumer satisfaction¹⁹.

The significance of these sanctions lies not only in safeguarding the consumer but also in promoting the stability of electronic transactions and fostering confidence in the digital market. This necessitates a legislative review of the relevant penal framework by the Algerian legislator, evolving it to align with the imperatives of the digital era.

Conclusion of the study:

In conclusion, this study establishes that consumer consent in electronic contracts constitutes the fundamental pillar for contract validity and for achieving a contractual balance within a digital environment characterized by technical and informational asymmetry between the professional and the consumer. With the reliance on digital mechanisms, such as electronic acceptance and click-wrap agreements, consent has become increasingly precarious and susceptible to the risks of vices of consent,

⁵⁰- Loiseau, Grégoire, *Les contrats électroniques*, LGDJ, Paris, 2003, p. 158.

⁵¹ - Abdelsalam Belkacem, "The Limits of Sanctions in the Protection of the Digital Consumer ", *Journal of Law and Economics*, Issue 9, 2021, p. 201.

⁵² - Fages, Bertrand, *Droit des obligations*, 12th ed., LGDJ, Paris, 2022, p. 225.

including error, fraud, and indirect duress.

The study demonstrates that although Algerian legislation—through general provisions in the Civil Code, consumer protection laws, and electronic commerce regulations—provides a foundational framework, it lacks sufficiently detailed mechanisms to ensure the integrity of digital consent. This deficiency is attributed to the absence of clear standards for pre-contractual information disclosure and the lack of robust mechanisms for exercising the right of withdrawal, compounded by the inadequacy of deterrent sanctions, which places an arduous burden of proof on the consumer before the judiciary.

In contrast, the French legal system offers an advanced model characterized by precise statutory provisions, the imposition of transparent disclosure mandates on professionals, and the guaranteed right of withdrawal, supported by effective sanctions. Collectively, these elements reinforce the protection of digital intent.

Furthermore, the study indicates that the role of the judiciary is pivotal and essential in safeguarding digital consent; however, it remains fragmented in the absence of detailed statutory provisions. In Algeria, the judge relies on discretionary power to evaluate the validity of digital intent, leading to inconsistent rulings and a lack of legal certainty. Conversely, the French judiciary provides effective tools for proving digital defects,

leveraging technical expertise and legal presumptions derived from information opacity or digital fraud (digital deceit).

The study also highlighted the importance of the digital confirmation phase and the receipt of verification messages as a key element to document the contractual process, ensure clarity of digital consent, and reduce legal disputes associated with e-acceptance. It forms a link between the presentation and digital acceptance phase and judicial verification of the validity of the will, and highlights the need to establish precise standards for the send, receipt and legal protection of these messages.

Based on these findings, we decided to provide a set of recommendations to enhance the protection of digital consumer satisfaction in Algeria, the most important of which are:

1. Develop legal texts to be more detailed regarding prior notification, reversal mechanisms, and conditions for the validity of digital consent.
2. Include accurate standards for digital display and acceptance, including transparency and clarity of information, and the need to document acceptance and confirmation letters.
3. Strengthening civil and administrative sanctions as a deterrent against offending professionals, with the possibility of compensation in favor of the consumer.
4. Adapting digital evidence rules to ease the burden on the consumer and

enable the judge to use technical expertise and detect digital defects.

5. Strengthening the role of the judiciary and judicial training on the characteristics of electronic contracts, while benefiting from the French experience as a model.

6. Raising the awareness of the digital consumer about their rights and ways of exercising their rights, to ensure that informed decisions are made and effective protection of their will.

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