

Defining the Concept of Economic Duress in Contracts

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Abstract:

Economic and social developments, along with evolving contractual practices, have authorized the judiciary to intervene in contractual relationships whenever it appears that the parties' exercise of contractual freedom could destabilize and disrupt the contractual balance. This imbalance stems from an inequality in the legal standings of the contracting parties, where one party exploits their dominant economic position or the urgent need of the counterparty to impose terms that favor their own interests over those of the economically weaker party—to such an extent that performing the contract may become excessively onerous for the latter.

The judiciary possesses a set of mechanisms that can assist in restoring the contractual balance between the parties in a manner suited to their economic circumstances. Among these mechanisms is the concept of "economic duress" (or *economic coercion*), which was initially crafted by jurisprudence (judicial precedents) and later legislatively codified in the 2016 reform of the French Civil Code.

Keywords: Economic Duress, French Judiciary, Economic Dependence, Contractual Balance.

Introduction

Given the limitations of traditional mechanisms derived from the Law of Obligations and Contracts—chief among which are the adjustment of liquidated damages (contractual compensation) and the interpretation of contractual clauses in favor of the obligor (debtor)—in addressing the various facets of contractual imbalance, it has become imperative to establish a mechanism that accounts for the disparity in economic capabilities during the formation and determination of contractual content. This mechanism might be confined to evolving a classic doctrine long enshrined by the French legislator in the Law of Obligations and Contracts as a vice of consent affecting the parties' will: namely, **duress**.

Modern practices within the economic sphere, coupled with the challenges faced by economic actors, necessitate expanding the scope of moral/psychological duress. It must be broadened to encompass the various forms of pressure exerted by one party over another to induce them into entering a contract, or to compel them to accept terms they would have otherwise rejected had they not been under such pressure (Jean-Pierre Pizzio, 2000, P. 46). This serves to reaffirm the fundamental role of contracts in serving the legitimate interests of individuals within an equitable framework.

Faced with these economic and social developments, along with evolving contractual practices, the legislator has granted the judiciary the right to intervene in contractual relationships whenever it appears that the parties' exercise of contractual freedom could destabilize and disrupt the contractual balance. This imbalance stems from an inequality in

the legal standings of the contracting parties, where one party exploits their dominant economic position or the urgent need of the counterparty to impose terms that favor their own interests over those of the economically weaker party—to such an extent that performing the contract may become excessively onerous for the latter.

- : Limitations of mechanisms
- :التعويض الاتفاقيLiquidated damages / Contractual compensation
- :المدين بالتزامThe obligor / The debtor
- :اختلال التوازن العقديContractual imbalance / Disruption of contractual balance
- :عيوب الإرادةVices of consent
- :الإكراه المعنويMoral duress / Psychological duress
- :تنفيذ العقد مرهق لهExcessively onerous to perform

The judiciary possesses] a set of mechanisms that can assist in restoring the contractual balance between the parties in a manner suited to their economic circumstances. Among these mechanisms is the concept of "economic duress," which was initially crafted by jurisprudence (judicial precedents) and later legislatively codified in the 2016 reform of the French Civil Code.

However, a controversial question arises: Is economic duress considered a vice of consent (a defect of will) or not? Does duress stem from the economic dependence of one contracting party on the other, or does it result from contractual imbalance? To address this problematic, the descriptive-analytical approach was employed to deduce results, alongside the inductive approach to analyze the relevant legal texts. To approach this issue, the topic has been structured as follows:

- **Section I:** The Doctrinal and Judicial Debate on the Concept of Economic Duress
- **Section II:** The Legislative Codification of Economic Duress as a Vice of Consent

Section I: The Doctrinal and Judicial Debate on the Concept of Economic Duress

A dispute has arisen in legal doctrine and jurisprudence regarding contracts where one of the contracting parties is in a position of economic dependence—what has been termed "economic duress" in contracts. This occurs when one party threatens to cancel the contract unless the other party accedes to their demands, leaving the counterparty with no practical alternative but to accept the new terms dictated by their peer.

It is worth noting that the duress exerted by the first party transcends the sharp bargaining that sometimes accompanies commercial negotiations; it includes, for instance, threats of inflicting harm or breaching an existing contract. If such a threat is proven, the contract can be deemed voidable (Mona Abu Bakr Al-Siddiq Muhammad Ihsan, 2022).

The issue that emerged at the doctrinal level centers on whether this economic dependence or economic duress constitutes a vice of consent. Legal scholars are divided between those who refuse to classify it as a vice of consent and those who affirm it. Characterizing economic duress as a vice of consent can serve as an effective tool to penalize instances of pressure exerted on the contracting parties' will. Consequently, it aligns with the moral trend aimed at achieving contractual balance. Similarly, resorting to economic duress can be justified by the need to balance mutual contractual benefits.

However, regardless of its basis and scope, invoking economic duress as a vice of consent remains limited due to the difficulty of establishing its burden of proof. The drafters of the Civil Code originally envisioned that characterising duress as a vice of consent was meant to allow the annulment of certain transactions entered into under the pressure of fear (reverential fear/duress), the proof of which is easier than that of economic duress. This very reason prompted trial courts (courts of merits) to rely on presumptions derived from economic dependence or contractual imbalance to prove the existence of economic duress.

Nevertheless, by consistently requiring proof of the deliberate exploitation of a contracting party's state of vulnerability, the Court of Cassation resisted this development—an evolution that would have otherwise expanded the scope of this vice of consent and potentially transformed it into an objective defect (*un vice objectif*).

- Vice of consent / Defect of will عيب من عيوب الإرادة (الرضا):
- Trial court / Court of merits محكمة الموضوع:
- Court of Cassation محكمة النقض:

To clarify this, we shall first address economic dependence and the extent to which it is deemed a presumption of economic duress (**Subsection I**). We will then discuss the discrepancy between the trial courts (courts of merits) and the Court of Cassation regarding the requirement of proving specific evidence of exploitation by one of the contracting parties (**Subsection II**).

Subsection I: Economic Dependence as a Presumption of Economic Duress

Proving the existence of duress within economic relationships is arduous. This is because the underlying reality itself—namely, the contractual imbalance—is established, according to judicial rulings, on one hand by the existence of economic fear resulting from a relationship of dependence or economic superiority, and on the other hand, by the unlawful nature of this fear. Replacing the evidence of contractual imbalance or economic dependence with an unjust element widens the gap between the decisions of trial courts and those issued by the Court of Cassation. For the former, the imbalance between rights and obligations, or benefits, or the state of economic dependence, is sufficient to prove that the will was not free—meaning it was vitiated by the defect of duress. Without claiming to be exhaustive, we will clarify how economic dependence is integrated into the vices of consent (**Paragraph 1**), followed by the consequences these rulings entail regarding the economic dependence of one party on another, thereby creating a realistic perception of the contract based on the subjective nature of the contracting parties (**Paragraph 2**).

Paragraph 1: The Integration of Economic Dependence into Vices of Consent

Proving the vice of duress is difficult in economic relationships because the very same fact (economic imbalance) can be utilized to establish, on one hand, the existence of economic fear arising from economic dependence or superiority, and on the other hand, the unlawful nature of this fear. In this regard, the rulings of trial courts and those of the Court of Cassation diverged concerning the substitution of the unlawful element of duress with economic imbalance or economic dependence.

Perhaps the application of this concept finds its greatest traction within the scope of employment contracts, where an employee's fear of losing their job constitutes a form of fear exploited by the employer to pressure them into granting an excessive advantage. The significance of applying this concept also manifests within supply contracts, which may involve a state of economic dependence experienced by the distributor in their relationship with the supplier, who might abuse it to achieve an excessive advantage for their own benefit. Furthermore, this concept finds an important application within securities contracts, where buying and selling operations are subject to what is known as the financial dominance of shareholders (Ashraf Jaber, 2017, p. 309).

Paragraph 2: Relying on the Subjective Condition of the Contracting Parties to Assess Economic Duress

In its judgment delivered on January 12, 2000, the court concluded that consent was vitiated by moral duress based on the threat of economic dismissal from employment at the time the disputed contract was concluded. Thereby, the court enshrined a realistic concept of the contract, under which the manifestations of duress surface from merely observing the material context of the contract, without requiring independent evidence of an intentional subjective element—namely, the character of unlawfulness.

In general, judges increasingly seek to take into account the underlying economic organization and the concrete situations of all parties by organizing the obligations contained in the contractual clauses. Consequently, the clauses become a means to access these factual elements. According to the aforementioned judgment, the concept of abuse was considered for the first time as a ground for annulling a contract concluded under economic duress, highlighting the realistic dimension in the judge's interpretation of the contract. Therefore, it can be argued that the evidential tension regarding economic duress persists with trial judges (Makhloufi Hayat Ouamhamed, 2021, p. 273).

Subsection II: The Requirement of Proving Specific Evidence of Exploitation Under the Court of Cassation

According to the Court of Cassation, the exploitation of economic fear must be proven. In this context, the consequences resulting from contractual imbalance, as a manifestation of economic fear, differ between the trial judge and the judge of the Court of Cassation.

Paragraph 1: Independent Economic Duress

The movement aimed at expanding the scope of duress as a vice of consent—and consequently as a ground for the annulment of contracts—to include economic fear is a revolutionary concept. In reality, the essence of a contract is to bind parties with divergent interests at the time of formation, which is the exact moment when each party exerts pressure on the other to accept terms that fulfill their personal interests. In this context, such an approach would undermine legal certainty (*sécurité juridique*) by extending the concept of duress to other instances where each party, upon contracting, would exert fear over the will of the counterparty, thereby disrupting contractual balance.

The French Court of Cassation intervened in two landmark judgments to anchor economic duress within the legal system, clarify its conditions of application, and put an end to the divergence of judicial rulings among appellate courts regarding the assessment of fear and the characterization of duress (Ammar Karim Kazem & Jawad Kazem Smeism, 2019, p. 14).

In a judgment by the French Court of Cassation rendered in 2002, which overturned (*quashed*) the judgment of the Paris Court of Appeal delivered in 2000, the Court of Cassation did not stop at annulling the contract on the grounds that the dictionary author had assigned the exploitation rights to the publishing company where he was employed. This assignment had placed him in a state of economic dependence relative to the company, compelling him to accept the contract despite its terms contradicting his personal interests and the provisions protecting copyright and publishing rights. The author was aware of an existing downsizing plan to dismiss employees, which generated fear within him. On this basis, the trial court ruled that the author harbored a fear of dismissal, thereby constituting economic duress.

However, the Court of Cassation intervened in this regard to establish specific conditions for economic duress. It clarified that only the abuse of economic dependence by one of the parties, intended to obtain a specific advantage, generates fear in the counterparty, who then resorts to contracting under duress at the expense of their legitimate interests. According to the Court of Cassation, economic fear arises from the abuse of economic dependence.

The judgment of the Court of Cassation relied on Article 1143 of the Civil Code, which illustrated the nature of economic duress as a vice of consent, to criticize the Court of Appeal for failing to prove whether the author, at the time of assignment, was under the threat of dismissal and whether the publishing house had exploited this circumstance to compel him to contract. The Court of Cassation requires that the party benefiting from the contract must have taken an active and personal role in instilling fear in the mind of the other contracting party. According to the Court of Cassation, it is insufficient to characterize it as duress merely because the contracting party fell into a state of fear that affected their freedom of will; rather, the unlawfulness of this fear must be proven.

From the Court of Cassation's perspective, the fear of employee dismissal was not the catalyst for characterizing duress; rather, it was the concentration of economic power in one of the contracting parties. Subjection or economic dependence alone is insufficient to prove the existence of the vice of duress. Therefore, the French Court of Cassation considers economic dependence as a prerequisite for characterizing

the vice of economic duress, yet the court did not provide any definition; instead, it utilized terminology previously deployed by the trial judge (Ammar Karim Kazem & Jawad Kazem Smeism, 2019, pp. 14-16).

Paragraph 2: Contractual Imbalance as a Means to Characterize Economic Duress

The Court of Cassation enshrined the concept of economic duress by holding that the abusive exploitation of a state of economic dependence, which gives rise to the exploitation of fear that threatens a legitimate interest of the contracting party, can alone vitiate consent. The requirement of abusive exploitation of a state of economic dependence is intended to verify the unlawfulness of the duress by reflecting the fault of the contracting party.

In fact, the unlawfulness of duress responds to the duality of foundations—both psychological and moral—that influence the entire theory of vices of consent, and is particularly activated due to the extreme inconsistency of the vice of duress. Furthermore, the court required that the exploitation of fear must threaten a legitimate interest of the contracting party. Thus, the court defined exploitation by its purpose, which is to derive an advantage for the contracting party who generated the fear. This concept, which defines the methods of proving exploitation, can be challenged by a contemporary interpretation of the vice of duress. Were it otherwise, the result would be a purely objective analysis of the contract based on a single criterion, namely the permissible balance, which contradicts the doctrine of autonomy of the will (*autonomie de la volonté*) (Alaa Ahmed Sobh, 2021, p. 703 et seq.).

Section II: The Legislative Codification of Economic Duress as a Vice of Consent

The genesis of economic duress, as previously indicated, traces back to the judicial rulings issued by the French judiciary and the efforts of French legal scholarship to ground and analyze these rulings, after...

الأمن القانوني	Legal certainty	<i>Sécurité juridique</i>
التبعية الاقتصادية	Economic dependence	<i>Dépendance économique</i>
استغلال تعسفي / إساءة استغلال	Abusive exploitation / Abuse	<i>Exploitation abusive</i>
ميزة فاحشة	Excessive advantage	<i>Avantage manifestement excessif</i>
سلطان الإرادة / حرية الإرادة	Autonomy of the will	<i>Autonomie de la volonté</i>

Section II: The Legislative Codification of Economic Duress as a Vice of Consent

As previously indicated, the genesis of economic duress traces back to the judicial rulings issued by the French judiciary and the efforts of French legal scholarship to ground and analyze these rulings, after the French legislator had initially omitted to explicitly codify it. Nevertheless, those judicial precedents and doctrinal efforts played an active role in shaping the theory of economic duress within contract law—particularly regarding financial and economic contracts—even though it did not stem from the shared intent of both contracting parties.

While this was the case in France, research into this obligation or doctrine has not received the same level of attention in Algerian law. The absence of an explicit statutory provision led both the judiciary and legal doctrine to overlook it, denying it the scholarly attention it warrants. To analyze this theory and provide its legal grounding, we must first address economic duress as a novel legal concept (**Subsection I**) and then examine the prerequisites for applying the theory of economic duress to contracts (**Subsection II**).

Subsection I: Economic Duress as a Novel Legal Concept

To thoroughly grasp this point, it is necessary to examine the reformed French Civil Code, as it represents the legal framework where the concept of economic duress was formally adopted and crystallized (**Paragraph 1**), followed by an overview of the Algerian legislator's stance toward this concept (**Paragraph 2**).

Paragraph 1: Economic Duress in the Reformed French Civil Code

The concept of economic duress did not remain confined to judicial precedents; rather, its features began to crystallize into legislative codification. Following extensive jurisprudence, a legislative trend emerged and culminated in the 2016 reform of the French Civil Code.

The French Civil Code did not codify economic duress as a vice of consent until very recently, despite the judicial trend supporting this concept. Furthermore, although it was legislatively regulated in a manner distinct from judicial precedents and competition law, the legislator introduced amendments to the doctrine of duress to remedy legislative gaps, resulting in divergent concepts between the Civil Code and competition law.

Duress, as a vice of consent, serves as a prominent example of how jurisprudence influenced the novel solutions introduced by Ordinance No. 2016-131 of February 10, 2016. The legislator adopted this concept in Articles 1140 to 1143 of the French Civil Code. This manifested in two aspects: first, resolving the legislative contradiction regarding the combination of objective and subjective standards in assessing the gravity of the threatened harm; and second, adopting the concept of economic duress arising from circumstances (Ashraf Jaber, 2017, pp. 307-308).

The French legislator distinguished between:

1. **The abuse of economic dependence**, which is sanctioned by the annulment of the contract due to the vice of duress, provided that the counterparty obtains a manifestly excessive advantage as a result of this abuse. This constitutes a general remedy applicable to all contracts.
2. **Severe contractual imbalance**, which is sanctioned by the nullification of unfair (*abusive*) clauses alone that disrupt the balance between the contracting parties. This remedy is strictly confined to contracts of adhesion (*contrats d'adhésion*).

Although credit belongs to the judiciary for inspiring this concept, the legislator adopted a broader definition, ruling that duress can occur in any state of dependence, without limiting it strictly to economic dependence. This implies it can also manifest whenever one contracting party abuses any state of dependence in which the counterparty finds themselves (Ashraf Jaber, 2017, pp. 309-310).

Paragraph 2: The Stance of the Algerian Legislator toward the Concept of Economic Duress

The stance of the Algerian legislator toward the concept of economic duress can be delineated through the Civil Code and special legislation.

First: In the Civil Code

To ascertain the Algerian legislator's stance, the following question must be posed: Can Articles 88 and 89 of the Algerian Civil Code (Order No. 75-58, as amended and supplemented) serve as a legal basis, even implicitly, for the theory of economic duress?

The absence of a statutory definition for economic duress in Algerian legislation stems from the fact that the Algerian legislator has not explicitly adopted this theory. However, some scholars argue that the legislator implicitly adopted the concept of economic duress as a form of moral duress under Article 88 of the Algerian Civil Code, which states:

"A contract may be annulled for duress if a person contracts under the influence of a manifest fear instilled wrongfully by the other party. Fear is deemed manifest if the circumstances lead the party claiming it to believe that a severe and imminent danger threatens them or one of their relatives in respect of life, limb, honor, or property."

Legal doctrine has undertaken the task of defining duress generally, and economic duress specifically. Some scholars define it as *"the excessive exploitation or threat directed against a person's interests to extract a consent that would not have been given but for such pressure"* (Al-Loumi Abdel Raouf, 2015, p. 94). It has also been defined as *"the exertion of pressure on a party to conclude a contract, whereby consent is extracted by force by taking advantage of their adverse circumstances, even if the exploiting party did not contribute to creating them"* (Assali Arara, 2014-2015, p. 62). Others defined it as *"a pressure affecting a person's will, driving them to contract"* (Abdel Razzaq Al-Sanhuri, 2010, p. 288), while some described it as *"a pressure affecting a person's will, generating a fear within them that induces them to*

contract, or an unlawful threat of inflicting harm on the contracting party or others, generating fear that drives them to contract" (Mohsen Abdel Hamid Al-Baih, 2017, p. 339).

Consequently, manifest fear vitiates consent, meaning that the contracting party would not have entered into the contract had the circumstances not led them to believe that a severe and imminent danger threatened their life, limb, honor, or property (Saadoun Yacine, 2017-2018, p. 114).

Article 88 of the Algerian Civil Code corresponds to Article 1142 of the French Civil Code. Conversely, Article 1143 of the French Civil Code incorporates the forms of duress and abusive exploitation of a contracting party's state of dependence—an issue left unaddressed by the Algerian legislator. Article 88 of the Algerian Civil Code contents itself with addressing the traditional and familiar forms of duress. From this perspective, it can be argued that the Algerian legislator has not explicitly provided protection for the weaker party in economic transactions under general law (*la chariaa gâma* / general principles of civil law), unlike the French legislator in the 2016 Civil Code reform. Notably, Article 88 of the Algerian Civil Code has remained unamended since its promulgation in 1975.

Second: In Competition Law

Economic dependence within professional relationships is characterized by each party being successively subject to the constraints of the counterparty. Competition law does not penalize economic dependence itself, but rather the abuse of such dependence. Furthermore, competition law has adopted the concept of economic dependence to restrict certain restrictive practices (Afaf Jawad, 2017-2018, p. 11).

Abuse under competition law consists of an economic actor's exploitation of the economic relationship between the parties. However, competition laws generally refrain from providing a generic definition of abuse, opting instead to list illustrative examples and practices. The abuse of a state of economic dependence was first codified as a restrictive practice under Article 11 of Algerian Ordinance No. 03-03 relating to Competition, as amended and supplemented, which explicitly prohibits the abusive exploitation of economic dependence, stating:

"Any enterprise is prohibited from abusively exploiting the state of dependence of another enterprise as a customer or supplier, if such practice disrupts the rules of competition..." (Mezghiche Abir, p. 498).

Article 3, paragraph (d) of Ordinance No. 03-03 relating to Competition shares common ground with Article 88 of the Algerian Civil Code regarding the necessity of the coerced party being under the influence of a manifest fear, where a severe and imminent danger threatens them, to establish duress as a vice of consent and thereby annul the contract. However, what distinguishes the state of necessity in economic dependence is that this commercial relationship does not result from physical or moral coercion; rather, it is dictated by circumstances that compel the dependent enterprise to accept the contractual terms imposed by the dominant enterprise under the penalty of suffering certain financial loss (Badra Laour, 2013-2014, p. 99).

Third: In Electronic Commerce Law

Pursuant to Article 6 of Law No. 18-05 of May 10, 2018, relating to Electronic Commerce in Algeria, an electronic consumer is defined as:

"Any natural or legal person who acquires, for a consideration or free of charge, a good or service via electronic communications from an electronic provider for end-use purposes."

Electronic economic duress refers to an e-provider's exploitation of an e-consumer's economic and cognitive vulnerability by morally compelling them to conclude a contract containing unfair (*abusive*) clauses, or by obtaining advantages that would not have been secured had the legal and economic positions of both parties been equitable.

With the development of electronic contracting methods, numerous abusive practices have surfaced in the digital environment, such as an e-provider's monopoly over a specific good or service resulting from a position of economic dominance. This dominance allows the provider to dictate the content of the contract concluded with the e-consumer, who cannot refuse due to their state of necessity. Consequently, the state of economic dependence in virtual space forces economic actors to conclude contracts lacking valid consent; the consumer's will becomes constrained by various considerations that eliminate the principle of contractual freedom, a phenomenon known as **electronic economic duress** (Chenatlia Wafa & Abdelhafid Bougandoura, June 2022, pp. 359-360).

Subsection II: Prerequisites for Applying the Theory of Economic Duress to Contracts

Since the concept of economic duress was forged by French jurisprudence and subsequently enshrined by the legislator during the Civil Code reform, the prerequisites for establishing the vice of economic duress are derived from the French Civil Code—specifically Article 1143 (as amended by Ordinance No. 2016-131 of February 10, 2016 - Art. 2), which provides:

"There is also duress when a party, abusing the state of dependence in which their cocontractant finds themselves, obtains from them an undertaking which they would not have entered into in the absence of such constraint, and derives from it a manifestly excessive advantage."

From this article, the necessary conditions to establish economic duress can be deduced: the existence of a contracting party in a state of dependence (**Paragraph 1**), and the abuse of this state of dependence to obtain a manifestly excessive advantage (**Paragraph 2**).

Paragraph 1: The Existence of a Contracting Party in a State of Dependence

Ordinance No. 2016-131 of February 10, 2016, reforming contract law and the general theory of obligations, enshrined the concept of economic duress—or more precisely, the abuse of a state of dependence—as a vice of consent under specific

circumstances (Al-Khatib Mohammad Irfan, 2019, p. 278). This concept stands as one of the most significant doctrines introduced by the Ordinance. Among the vices of consent, the French legislator introduced a new form of duress in the new Article 1143, explicitly penalizing abusive behavior by one party that exploits the vulnerability of the counterparty.

The significance of the scope of Article 1143 of the Civil Code regarding the abuse of a state of dependence lies in requiring the *active abuse* of that state, rather than the mere objective existence of dependence, in alignment with the judicial stance on economic duress. In other words, simple evidence of a state of dependence is insufficient; it must be proven that the counterparty abused this dependence to coerce the other party into contracting.

Furthermore, the abuse of dependence must be proven independently of the existence of a contractual imbalance. A monopoly serves as a prime example of economic duress, where the coerced party finds themselves compelled to contract with an entity monopolizing a specific good or service due to the absence of alternatives, thereby allowing the latter to impose unfair clauses (Kazem Karim Ali, 2019, p. 301).

Paragraph 2: The Abuse of a State of Dependence to Obtain a Manifestly Excessive Advantage

To establish economic duress, the mere existence of a state of dependence is insufficient; the dominant party must have abused this state to obtain a manifestly excessive advantage. To sustain an action for the annulment of a contract based on economic duress, there must be an abuse of dependence that generates pressure, compelling the weaker party to enter into the contract under constraint. The French legislator characterized any abuse of dependence as duress, while incorporating the condition of a "manifestly excessive advantage" (Makhloufi Hayat Ouamhamed, 2021, pp. 272-273).

This additional condition concerning a *manifestly excessive advantage* aims to restrict the scope of Article 1143 of the Civil Code, drawing the provision closer to the concepts of gross disparity (*lesion*) or unfair clauses (*clauses abusives*). This refers to the excessive exploitation of a contracting party's state of vulnerability, allowing the dominant party to extract an excessive advantage.

Legal doctrine views this exaggerated advantage as the direct outcome of abusing economic influence. Consequently, the excessive advantage serves as a presumption of the abuse of economic power (Assali Arara, 2014-2015, p. 182). The excessive advantages obtained by the intervening party are those secured through the abuse of economic influence, which leads to a structural contractual imbalance between the parties regarding their rights or obligations, and these advantages are not invariably monetary in nature (Leouamri Walid, p. 77).

Conclusion

The French judiciary addressed economic duress long before it was legislatively codified by the contract law reform of February 10, 2016. The courts approached the annulment of contracts due to economic duress and economic dependence with

extreme caution. Subsequently, the 2018 ratification law added the term "manifestly excessive" to Article 1143. However, introducing this contractual doctrine into the French Civil Code was not a simple codification of prior jurisprudence, but an expansion of it.

The French legislator's recognition of the theory of economic duress provided an additional mechanism to protect the weaker contracting party and restore contractual balance. This reform legitimized judicial intervention in contracts, introducing a measure of contractual justice into a field of law still governed by the principle of contractual freedom.

Based on the foregoing, the following recommendations are proposed:

- The Algerian legislator should urgently intervene to review the theory of duress by adopting an expanded definition of duress as a vice of consent. This expansion should encompass the abusive exploitation of a contracting party's state of dependence, thereby eliminating the existing contradictions between the Civil Code and special legislation, most notably competition law.

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