

# Legal Definition of Consumer in European Union and Arab Consumer Protection Laws

Fatima Al Samarac<sup>1</sup>, Mahmoud Ismail<sup>2\*</sup>

<sup>1</sup>Lawyer, Department of Private Law, Baghdad, Iraq

<sup>2</sup>Associate Professor, Department of Private Law, Applied Science Private University, Amman, Jordan

**Abstract:** This study aims to answer the question: Who is a consumer? The main issue here is not to find out who the economical or social, consumer is, but to find out who could be considered as a consumer from a legal perspective. And then, being capable to determine the individual space of the consumer acquis. The notion of consumer is a key concept restricting the implementation of consumer protection regulations. However, not only is there no consistent and solid definition in European Union policies and Arab laws, there are also differences amongst the doctrines. We choose these two entities (European Union policies and Arab laws) to get two different points over the Mediterranean region markets. The context behind the notion of consumer comes out from economics before being related to the legal issues. However, it has developed an independent meaning in the legal sphere, having become the factor activating the application of a separate set of rules, known jointly as consumer protection law. In some laws, the notion of consumer is important not only in the civil and commercial law but also in private international law and in civil procedure law. Furthermore, owing to the least harmonisation character of the substance of the consumer procedural, many doctrines extend the individual space of their consumer protection law beyond the notion of consumer in protection laws.

**Keywords:** Consumer notion, civil law, European union law, commercial law, consumer protection laws.

## 1. Introduction

The precise definition of the concept of consumer is of great importance in limiting the scope of persons concerned with the protection, which is determined by the relevant legal provisions for consumer protection in the applicable legislations, and, therefore, the exclusion of those who are not within the description of consumers from the scope of protection in the commercial transactions, such as producers and distributors.

In the legal terminology, the concept of the consumer has not yet received a comprehensive and accurate definition, because it has not received sufficient attention, as a study and analysis, by law jurists, because it is an economic term that has recently penetrated into legal notion, whereas in economic field there is no disagreement between economic jurists on the meaning of consumption or consumer, since the term consumption,

according to their understanding, is the last stage of commercial transactions that follow the process of production and distribution, while the consumer is: “the person who purchases the commodity or service with the intention of satisfying his needs or desires or his family<sup>1</sup>”. According to this definition, the consumer purchases goods and services for the purpose of satisfying his needs or desires, without being intended to be used in the process of producing, transferring, trading or distributing other products, this definition also restricts the commercial activity of the consumer within the purchase process, without covering the rest of the legal activities to which he may be a party such as the rental or award of the goods or services.

This agreement on the concept of consumption and the consumer in economic jurisprudence is not available in legal jurisprudence. Although the jurists agreed on the need to protect the consumer, they differed in determining the person who deserves this protection, the reason of the difference in the jurisprudential and legislative definition of the concept of the consumer, is due to the category of consumers is not fixed in legal terminology, as this term refers to everyone who benefits from a good or service, whether the purpose is to fill a personal and family need or professional purposes.<sup>2</sup>

In order to serve the purposes of this study and before entering into the details of the consumer protection that the legislator guarantees to the public of consumers, the ambiguity of the concept of consumer in the legal term must first be eliminated, by reviewing the opinions of jurists and searching for places of convergence among it, also exploring the legislative concept of the consumer and highlighting its role in consolidating its concept specifically, and to this end the study was divided into the following research topics to address the most important issues in this regard from the linguistic, jurisprudential and legislative point of view.

## 2. The Linguistic and Jurisprudential Concept of Consumer

The Consumer is the subject noun of the verb consume, and

<sup>1</sup> Al Jeraisy, Khaleda Abdel Rahman (2006), Consumer behaviour, ed. 3, Riyadh, Jeraisy Encyclopaedia of Distribution and Advertising, p. 42.

<sup>2</sup> Bawadli, Mohamed (2006), Consumer Protection in Comparative Law: A Comparative Study with French Law, Algeria, Dar Al-Kitab Al-Hadith, p. 21.

the pronunciation of “consumption” in the language is a perish stem that has a root, where the meaning of (he consumed the money) is (he spends and use all the money), while (the consumer) is (the spender).<sup>3</sup>

In the sphere of jurisprudence, the shift in the concept of consumption from a mere economic idea to a legal one has prompted jurists to strive to achieve a clear legal concept that guarantees the provision of the necessary legal protection to the public of consumers to the fullest.

In defining the concept of the consumer, legal jurists divided into several trends, some of which defined it in a narrow scope, while others tended to expand the concept of the consumer.

#### A. The Narrow Concept of Consumer Idea

The majority of legal jurists preferred the narrow concept in defining what is meant by the “consumer”, and the jurists of this trend defined the “consumer” as: “Whoever concludes a contract with the intention of satisfying his personal and family needs.”<sup>4</sup> Or he is "the contractor who concludes contracts in any form or subject with another technically specialized professional party in order to meet his personal and family needs without this contract being included by the professional activity of the first party."<sup>5</sup>

Previous definitions can be considered the narrowest definitions provided for the concept of “consumer” because they are limited to the person who enters into contracts to meet his personal and family needs only, and excludes the merchant and the professional from the “consumer” segment, including if he has acted legally to obtain goods and services outside his professional competence if It is intended to serve his professional activity<sup>6</sup>, or if his actions for the purpose of obtaining goods and services are closely related to his professional activity and the scope of his competence<sup>7</sup>, it is also pointed out that these definitions excluded those who acquire and consume goods and services without the necessary legal action being taken by them, such as the family of the consumer, and that the definitions only protect them according to the general rules of civil liability.<sup>8</sup>

This is in contrast to those who define a “consumer” as “that person who uses goods and services to meet his own needs and those of those who support them and does not resell, transfer or use them in the field of his profession”<sup>9</sup>, this definition does not require the person to act to be considered a consumer, but

merely to his use for goods and services, this means that his family members are covered by the protection stipulated in the legal rules of the consumer.

Through the previous jurisprudential definitions, it is clear that this trend requires the fulfilment of two conditions to attach the consumer status to the person, the first of which is that the person obtains the commodity or service to achieve personal or family purposes, and that the purpose of possessing the commodity is not to include it in other manufacturing processes for the purpose of trading it, and the second is that the scope of his legal action is the consumable goods<sup>10</sup> or services<sup>11</sup> is to benefit from it.

The exclusion of this tendency for any person who contracts a good or service for the purposes of his profession or for the purposes of resale or speculation from the “consumer” segment raises an important issue in the legal community in relation to the mixed use of the commodity, as the professional buys a car and allocates it for the purposes of his occupation such as transporting his products as well as using it in his and his family’s movement, so is it valid to describe him as a “consumer” in this case, according to the narrow trend of the concept of “consumer”?

In cases similar to the preceding case, the person who performs a legal act and uses the commodity for the purposes of his profession is not considered a “consumer” and does not benefit from the protection prescribed for the consumer, unless his professional use is marginal and minor compared to personal use, as confirmed by the Council of the European Union in its report of (20/01 /2005).<sup>12</sup>

It is observed that by excluding any person who justifies his actions for professional purposes in accordance with this trend, leads to the exclusion of legal or moral persons<sup>13</sup> from the framework of the concept of “consumer”, and to limit it to the natural person who seeks to satisfy his personal and family needs, unlike the legal person subject to the principle of privatization, which confines other activities to the limits of achieving the purpose for which it was found, which is the position taken by the proponents of this trend, but this position is criticized because legal persons, such as associations whose activities are not intended to achieve any material profits, or those who obtain goods and services and use them for non-professional or professional purposes, but the subject of the act was outside their competence, where they are in a vulnerable

<sup>3</sup> Abadi, Majd al-Din Muhammad ibn Yaqoub al-Fayrouzi (2008), *Al-Qamous al-Muheet*, Cairo, Dar al-Hadith, p. 1704.

<sup>4</sup> Ibrahim, Abdel Moneim Moussa (2007), *Consumer Protection: A Comparative Study*, ed.1, Beirut, Al-Halabi Human Rights Publications, p. 19.

<sup>5</sup> Abdul Rahman, Abdul Hakim Mustafa (1997), *Consumer Protection in Private International Law*, Cairo, Dar Al-Nahda Al-Arabiya, p. 14.

<sup>6</sup> For example, a doctor who buys electronic devices and allocates them for use in the scope of his business and to serve his profession.

<sup>7</sup> An example of this is a doctor who contracts to purchase medical devices for use in his specialty.

<sup>8</sup> Al-Deeb, Mahmoud Abdel-Rahim (2011), *Civil Protection for the Consumer: A Comparative Study*, New University House, Alexandria, p. 11.

<sup>9</sup> Hamdallah, Muhammad Hamdallah (1997), *Consumer protection in the face of arbitrary conditions in consumption contracts*, Cairo, a comparative study, Dar Al-Fikr Al-Arabi, p. 12.

<sup>10</sup> Iraqi Consumer Protection Law No. (1) for the year 2010 defines in its first article a commodity as “every industrial, agricultural, transformative, semi-

factory, raw material, or any other product that can be calculated or estimated by counting, weight, measure, or measurement that is intended for consumption”.

<sup>11</sup> The Syrian Consumer Protection Law No. (8) of 2021 defines in its first article the service as: “every business or activity provided for a fee to the consumer by any commercial, industrial, tourist, professional, craft or agricultural activity.”

<sup>12</sup> Manasra, Hanan (2018), *Rooting the meaning of the electronic consumer in legislation, jurisprudence: a comparative study*, In-depth Legal Research Generation Magazine, Issue 22, Feb., p. 105.

<sup>13</sup> A legal person is defined as: “a group of persons or funds united by an organized formation, aiming to achieve a specific goal, which is recognized by the law, and the independent legal personality is granted to it to the extent necessary to achieve this goal”; Al-Zoubi, Awad Ahmed (2017), *Introduction to the Science of Law*, ed.4, Amman, Ithraa for Publishing and Distribution, p. 271.

position vis-à-vis the professionals, since there is no difference between them and the natural consumer in the need for legal protection, except that they lose the status of consumers when acting for professional ends, not as legal persons but as professionals who have no justification for consumer protection on the basis that he is the weak party to the contract.

The main reason that most jurists advocate this trend is its uniqueness in simplicity and accuracy, which facilitates its application in the legal reality, and it also achieves the purpose of creating consumer protection provisions, the essence of which is the desire to protect the vulnerable party in commercial relations, which is the one who consumes to meet the basic needs that may be necessary or luxuries for his person or his family without the intent of distribution or speculation, as the protectionist provisions do not apply to cases where the parties to the act have the same category of competence and experience, such as a consumer contracting with another consumer, or professionals among themselves, because the justifications for protection stipulated in the Consumer Protection Law are not available in the parties to such relationships and are only protected by general rules, where Amman Court of First Instance, in its appellate capacity, ruled in this regard by<sup>14</sup>: "Whereas the court finds that the relationship between the complainant and the appellant is a contractual, governed by an external vehicle sale contract, and that the dispute between them is just a civil dispute, and its actions do not constitute an offence and do not warrant punishment, and that the Consumer Protection Law does not apply to the facts of this case, as the targeted category of this law is the public of consumers, and that the parties intended by these texts are merchants, companies, and service providers to public, and these provisions are not related to an individual commercial relationship between the parties, and it has been established that the complainant and the appellant are not from the category of merchants, and that the appellant is not a provider of any service, where the relationship is just a vehicle sale relationship, which does not amount to the concept of breaching contractual obligations under Article (6/b) of the Consumer Protection Law, in which the cases were mentioned exclusively, and that the concept of such cases undoubtedly confirms that the category of merchants and service providers to consumers is intended and that saying otherwise opens the door wide in the event of any contractual relations between citizens that have not fulfil the conditions of the agreement and are referred to criminal law. This cannot be the aim of the legislator and the intended purpose of the criminalization provisions."

### B. Expanded Concept of Consumer Idea

The idea of this trend is due to the early-stage consumer protection movement, since the speech of the late US President

"John Kennedy", in (1962), in which he declared: "All of us are consumers".

The advocates of this trend considered that the consumer is any person who concludes contracts, whether purchase, lease or other contracts, in order to obtain the goods and services for the purpose of satisfying his necessary and luxury needs, whether immediate or future, provided that he does not have the technical capabilities that may enable him to qualify these goods for resale or speculation.<sup>15</sup>

It is noted from this definition that a natural or legal person is considered a consumer, whether the legal act is concluded and the commodity is obtained for the purpose of satisfying his personal needs or for professional purposes outside his competence and the main purpose thereof to serve his profession, and to grant him the character of a consumer it was merely required to lack the technical capacity to qualify and develop these goods for speculation, the proponents of this trend consider the professional a consumer in the event that he contracts for the purposes of his profession and the subject of the contract is outside the scope of his competence, i.e. the term non-professional here must be understood as not being professional in the same competence as the other party to the contract.<sup>16</sup>

The definition of the consumer here also includes the saver, although the concept of the saver contradicts the concept of consumer, who contracts to meet an immediate need, where the saver allocates part of his non-consumed resources to meet future needs, however, part of jurisprudence expanded the concept of the consumer to include the saver, *inter alia*, that both the consumer and the saver contracts with the professional, and the same motives that led the legislator to intervene and set up legal rules to ensure consumer protection justified the need to protect the saver in the face of the acts of certain professionals regardless of the different economic functions of each other.<sup>17</sup>

The main purpose of this tendency to expand the definition is to introduce the professional who contracts outside his competence into the consumer segment and thus include him in the scope of legal protection, bearing in mind that the professional in this position is in a vulnerability position, not different from the consumer, as he represents a party ignorant of the commodity or service, as a result of his contracting outside the scope of his qualifications in the face of another specialized professional who is superior to the first in terms of experience and knowledge of the subject matter of the commodity or service, the subject of the legal act<sup>18</sup>. This trend is criticized, as proponents of the narrow trend believe that this expansion of the consumer concept is unjustified, because it leads to unclear consumption laws that lead to difficulties in its application, and professionals do not represent the weak party

<sup>14</sup> Judgment No. 1806 of 2021 issued by the Amman Court of First Instance in its appeal capacity.

<sup>15</sup> Ibrahim, Khaled Mamdouh (2010), The conclusion of the electronic contract, ed.2, Alexandria, Dar Al-Fikr Al-Jami'i, p. 50.

<sup>16</sup> Al-Rifai, Ahmed Mohamed Mohamed (1994), The Civil Protection of the Consumer Against the Contractual Content, Cairo, Dar Al-Nahda Al-Arabiya, p. 25.

<sup>17</sup> Al-Sharabi, Mamoun Ali Abdo (2019), Legal protection for the consumer on the Internet, Cairo, the National Center for Legal Publications, p. 87-88.

<sup>18</sup> Abdullah, Linda (2008). The consumer and the professional are two different concepts, the first national forum on consumer protection in light of economic openness, Algeria, April 7-8, publications of the Institute of Legal and Administrative Sciences at the University Center in El-Wadi, p. 23.

in their contracts, especially since they are more careful and motivated with regard to their profession than the ordinary consumer who contracts for personal and family purposes, nor does the failure to grant consumer status to a professional when contracting outside his competence does not leave him unprotected, since if he lacks protection under consumer protection laws, he remains protected within the ambit of general rules.<sup>19</sup>

By reviewing the previous jurisprudential trends, we note that legal jurists did not address the definition of the e-consumer, despite the spread of this term in the modern era as a result of the increase in e-transactions, due to the definition of the consumer by the jurists is according to the criterion of the subject of consumption rather than the means he uses in the context of his legal conduct, therefore, the e-consumer is not outside the concept of the ordinary consumer except in the fact that he uses modern means of communication to conduct his own legal procedures for the purpose of meeting his personal, family or professional needs outside his competence.

Based on the foregoing, we believe that the consumer: is the natural or legal person who obtains the commodity or service with the intention of satisfying his non-professional needs, whether he completes his legal procedures by traditional or electronic means.

### 3. Legislation's Position on Consumer Definition

After the study dealt with the jurisprudential concept of the consumer by presenting the trend that narrowed its concept and the trend that expanded it, while the study will highlight now the concept of the consumer in legislation, where the majority of Arab legislation included a specific definition of the consumer in its laws<sup>20</sup>, in the contrast of European Union Policies, unlike the characteristic of legislation that does delve into the definition of legal concepts and leaves it to be determined by jurisprudence and judiciary, the legislator differed in this approach in respect to the consumer in order to avoid any dispute that may arise when applying the legal text based on the different jurisprudential opinions on the identification of persons applicable to the description of consumer and those who are covered by the scope of protection. In this section, the most important provisions in this regard will be presented in the European Union Law and some Comparative Arab legislations.

#### A. Legal basis and Consumer Definition in Charter of Fundamental Rights of the European Union

In order to track consumer definition in the modern legal status of European Union space, we need to start with the legal basis of consumer protection in the large legal entity called EU.

#### 1) Legal Basis of Consumer Protection in the European Union Law

Articles 4.2.F, 12, 114.3 and 169 of Treaty of the Functioning of the European Union and Article 38 of the Charter of Fundamental Rights of the European Union constitute the principal law for consumer protection policy. Article 169 of the Functioning of the European Union defines precise aims of the policy: In order to encourage the securities of consumers and to ensure an important level of consumer protection, the Union shall contribute to protecting the “health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests”. Article 169 supplements Article 114 of the Functioning of the European Union, which indicates that – in its schemes concerning health, safety, environmental protection and consumer protection – the Commission will take an important protection. Article 169 of the Functioning of the European Union also states that EU measures shall not avert any Member State from maintaining or introducing more strict protective measures provided that they are harmonious with the Treaties. In this way European Union laws provides a collective basic level of protection to consumers residing in the EU. Besides, Article 12 of the Functioning of the European Union clarifies that consumer protection must be considered by the other Union policies and activities, while Article 38 of the Charter of Fundamental Rights of the European Union confirms the importance of consumer protection, stating that Union policies shall ensure a high level of consumer protection.

#### 2) Consumer Definition in European Union Law

There is no constant and uniform definition of consumer in European Union law and there are also differences amongst the Member States, relatively as a result of transferring European Union directives into national legislations. In the current European Union consumer acquis each European Union instrument defines the consumer distinctly for its own purposes. Those definitions basically meet, but some differences occur. The consumer has been defined in numerous directives in the range of contract law, as well as in the regulation Brussels,<sup>21</sup> and Rome,<sup>22</sup> in the range of procedural law, which include precise directions for consumer protection. The most of current European Union directives define the consumer as a “*natural person who is acting for the purposes which are outside his trade, business and profession*”.<sup>23</sup> The definition is then a negative type. The directives also distinct the definition of economic activity, including the craft works. The notion of consumer in European Union law does not relate to legal persons, even if they have a non-business character, as would be the case for non-profit associations. This has also been highlighted in the case law of the Court of Justice on several occasions. There is an exception, namely “*the Package Travel*

<sup>19</sup> See: Article (1) of the Palestinian Consumer Protection Law No. (21) of 2005 and its amendments, Article (1) of the UAE Consumer Protection Law No. (15) of 2020, and Article (1) of the Kuwaiti Consumer Protection Law No. (39) of 2014 Article (1) of the Syrian Consumer Protection Law No. (8) of 2021.

<sup>20</sup> Al-Jaf, Alaa Omar (2017), Legal mechanisms for consumer protection in electronic commerce contracts, ed.1, Beirut, Al-Halabi human rights publications, p. 97.

<sup>21</sup> Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

<sup>22</sup> Regulation (EC) No 593/2008 on the law applicable to contractual obligations, applying to contractual obligations in civil and commercial matters in the event of a conflict of laws.

<sup>23</sup> J. Valant, Consumer Protection in the EU, Policy Overview, European Parliament, 2015, p. 4.

*Directive*”,<sup>24</sup> which uses a larger notion of the consumer by including “companies and business travellers as purchasers and users of travel services”. Because of the feeble harmonisation of the consumer acquis, many Member States prolonged the scope of consumer protection law beyond the definition of 'consumer' in EU law.<sup>25</sup>

### B. Consumer Definition in Arab Legislations

Many Arab consumer protection laws were scanned to find out how did Arab legislators managed to define the consumer.

#### 1) Consumer Definition in Jordanian Legislation

Article (2) of the Jordanian Consumer Protection Law No. (7) of (2017) defines the consumer as: "A natural or legal person who obtains a commodity or service with or without payment, in satisfaction of his personal or other needs, not including a buyer of the commodity or service for resale or lease".

We note through this Article that the Jordanian legislator ensured that the definition contained the following issues: (1) Inclusion of a legal person in consumer protection, taking into account the fact that a legal person needs protection as well as a natural person, if it represents a number of natural persons who are entitled to protection and applies to the description of consumers;<sup>26</sup> (2) The definition includes everyone who obtains the commodity or service with protection, i.e., the legislator did not require a specific legal procedure to obtain the commodity, where the concept of acquisition is wide and includes purchase, donation, rental and use, also the definition did not stipulate the means of obtaining commodity and services, and therefore it includes traditional and electronic means; (3) The Jordanian legislator adopted the narrow concept of the consumer<sup>27</sup>, considering that protection should be for the natural or legal person who represents the weak party and who obtains goods and services in order to satisfy his personal or other needs exclusively, and the position of the legislator here is clear with regard to removing professionals, merchants, and anyone who buys the commodity for the purpose of re-sale or speculation from the classification of the consumer and their inclusion in the classification of suppliers<sup>28</sup>, and the exception here includes them, even if the conduct is outside their professional competence, as long as the conduct is for professional purposes; (4) For the purpose of distinguishing consumers from others, the legislator depends on the purpose and objective of obtaining the commodity, whether to meet personal needs, the needs of others, or for professional purposes, nor did he require that the purpose of acquiring the commodity be to satisfy the contracting consumer's personal need, but rather this description was given to those who obtain the commodity or

services to satisfy the needs of others, even if they are not contracting parties, and this includes the consumer's family and other beneficiaries, this is a commendable approach in that the legislator did not limit the definition to meeting the needs of the contractor and his family only, however, it would have been better if the legislator does not address the beneficiary's persons, and limited the matter to the purpose of acquisition in that it is not a professional, and therefore it can include the consumer who obtains the good or service and the purpose of it is to meet his personal needs or the needs of others or an animal he may own, which is in line with the protection granted to animals in the Law, which criminalizes acts of fraud in the food supply of the animal<sup>29</sup>, in addition, protecting the animal from substances that harm its health is an indirect protection for the health of the consumer that may be affected as a result of accompanying the animal.

#### 2) Consumer Definition in Iraqi Legislation

The Iraqi legislator referred to the definition of the consumer in Article (1) Paragraph (5) of the Iraqi Consumer Protection Law No. (1) of (2010), which states that the consumer is: “Natural or legal person who is obtaining a commodity or service with the intention of benefiting from it.”

Going deep into the previous definition established by the Iraqi legislator, the following observations can be recorded: (1) Protection is included for both natural and legal persons; (2) The legislator deemed that any person who obtains a commodity or services is a consumer, and his reference to the term (obtains), which is a term that includes all forms of transactions, indicates that no specific legal conduct to obtain commodity or services such as purchase, leasing or contracting, which is a sound approach, also, like the Jordanian legislator, the legislator did not mention the means by which consumer contracts are concluded, and therefore includes any traditional or electronic means; (3) With regard to the consumer's purpose to obtain commodity and services, it is noted that the legislator introduced the phrase (with the intention of benefiting from it) in an absolute manner, indicates that everyone who obtains commodity and services is considered a consumer, whether for professional or non-professional purposes, the meaning of benefit here is broad and flexible and can carry all interpretations,, and this is an exaggerated expansion that contradicts the purpose for which consumer protection legislation was established, which is to secure protection for the vulnerable party who lacks technical qualifications in the face of the supplier or merchant; (4) We note from the foregoing that the definition of the Iraqi legislator for the consumer is defective in determining the category of consumers based on

<sup>24</sup> 90/314/EEC.

<sup>25</sup> H. Schulte-Nolke and L. Meyer-Schwickerath, *The Notion of Consumer in EU Law*, 2014.

<sup>26</sup> What confirms this trend for the Jordanian legislator is his definition of the consumer in Article 2 of the General Electricity Law No. 64 of 2002 and its amendments, as: "a natural or legal person who purchases electrical energy for his own use."

<sup>27</sup> The provider is defined in the text of Article 2 of the Consumer Protection Law as: “a natural or legal person from the public or private sector who exercises in his name or for the account of others an activity represented in distributing goods, trading, manufacturing, renting them, or providing services

to the consumer, including any person who puts his name or his trademark or any other distinguishing mark he owns on the good or service.”

<sup>28</sup> Article (386/1): “A penalty of imprisonment from one month to one year and a fine of five to fifty dinars, or one of these two penalties, shall be imposed on the following: A- Whoever cheats materials related to human or animal food, drugs, drinks, or industrial, agricultural, or natural products prepared for sale”.

<sup>29</sup> The definition in this sense contradicts what was stated in the texts of the law itself. In the sense of violating the second paragraph of the text of Article (3) in which it was stated that one of the objectives of this law is (to ensure the transparency of economic transactions in which the consumer is a party), an indication that the legislator recognizes the existence of legal relations that are not in which the buyer or beneficiary is a consumer.

the purpose of obtaining commodity and services, and this defect took the consumer out of the framework of his jurisprudential classification, as the definition did not fall within the narrow or expanded trend, but rather exceeds it to the extent that everyone who obtains a commodity and services is considered a consumer and deserves protection, even the supplier, and with this expansion the legislator has weakened, and even lost the function and meaning of legal protection for the consumer, when protection is granted to contractual relations that are balanced and protected according to general rules and that lack justifications for their protection according to consumer rules.

In the previous definition, the legislator failed to clarify his position on those who obtain the commodity with the intention of achieving benefit for others, such as his family, which is an inappropriate narrowing, as he excluded those who are more deserving of protection than professionals.

### 3) *Consumer Definition in Palestinian Legislation*

Article (1) of the Palestinian Consumer Protection Law No. (21) of (2005) defines the consumer as "anyone who buys or benefits from a commodity or service".

By reviewing the Palestinian legislator's definition of the consumer, one note can be made, which is that the Palestinian legislator has defined the consumer without including the definition of any feature that distinguishes him from others, and the generalization here results in considering all contractors and beneficiaries as consumers, whether they are natural or legal persons, whether they are professionals who contract for the purposes of their profession or not, this expansion is criticized, as the Palestinian legislator here, like the Iraqi legislator, has demolished the primary purpose that was created for consumer protection legislation, which is to protect the weak party in unbalanced contractual relations, due to the difference in experience and economic strength between the professional and the consumer, which is not achieved through the definition of the previous legislator, what is the wisdom of enacting the Consumer Protection Law in the event that the protected professional under the general rules is merged into consumer segment, and makes him worthy of the consumer rules?

### 4) *Consumer Definition in Egyptian Legislation*

The Egyptian Consumer Protection Law No. (181) of (2018), in paragraph (1) of Article (1) in chapter (1), defined the consumer as: "Any natural or legal person to whom a product is provided to satisfy his non-professional, non-craftsmanship or non-commercial needs, or who is dealt with or contracted in this regard."

The same law defines "the product" in Chapter (1), Article (1), paragraph (4) as: "Goods and services provided by subjects of public or private law, including used goods contracted through a supplier, except for financial and banking services regulated by the Central Bank and Banking System Law and the Regulation of Market Control and Non-Bank Financial Instruments Law".

It became clear to from the previous text that in order to distinguish consumers from others, the Egyptian legislator took the purpose of the contract as a criterion to determine who applies to the description of the consumer, since the consumer

who is entitled to protection here is the natural or legal person who contracts to meet his needs away and unrelated from his professional function, as also defined, the description of the consumer includes non-contractual persons who are provided with goods and services to meet their non-professional needs as the consumer's family, and therefore the Egyptian legislator adopted the narrow concept of the consumer by limiting Protection for non-professionals and the exclusion of everyone who contracts for a profession purpose from the consumer classification despite being a weak party because the subject of the contract is different. from his field of competence.

We point out that the Egyptian legislator recently added legal persons to the classification of the consumer, as the definition of the consumer in the Consumer Protection Law No. (67) of (2006) Article (1) did not mention them, as in this article the consumer is defined as: "Any person to whom a product is provided for the satisfaction of his personal, family needs, dealt with or contracted in this regard." His intention is inferred by the phrase (any person) exclusively natural persons because he followed it with the phrase (personal and family needs) which contradicts the nature of the activity of the legal person and which he replace it the new law by more comprehensive term (non-professional or non-craftsmanship needs), which is more precise in this place because it accommodates the non-professional activities of a legal person.

### 5) *Consumer Definition in Algerian Legislation*

Algerian legislation addressed the definition of "consumer" in Article (3), paragraph (1), of the Consumer Protection and Fraud Suppression Law No. (09-03) of (2009). "Any natural or moral person acquires, for a fee or for free, a commodity or service directed to the final use in order to meet his personal needs or meet the need of another person or an animal that is sponsored by him", and from reading the definition that the legislator set for the consumer, the following remarks are made: Moral people have protection with natural people, as the legislator included the consumer description of the moral person who performs non-professional purposes and his actions free of any intention to profit; The legislator did not stipulate a specific legal conduct in which the consumer obtains the commodity or service, whether the conduct is compensated and without compensation, as if the acquisition was the result of a gift granted to the consumer, but it requires that consumer is the last link in commercial transactions, which means that the acquired commodity is not directed to re-manufacturing for speculation purposes, but only to consumption. However, the legislator here uses the phrase (acquisition), which in turn is excluded (the commodity used) from the protection stipulated for the consumer.

The legislator has taken the non-commercial purpose of acquiring the commodity as a criterion to distinguish the consumer from others, according to the point of view of the legislator who has gone toward the narrow concept, the consumer acquires the goods and services to satisfy his or her personal or other needs away from professional purposes, and if the purpose of the acquisition of the goods or services is to meet his professional needs, he would be out of the consumer segment, also not only did the legislator require that the purpose

of the acquisition be to satisfy the contracting consumer's needs, but also to provide for the acquisition of goods and services to meet the needs of others, in addition the legislator was not satisfied with that, but considered those who acquired goods and services for the purpose of the needs of an animal that he owned, from food or veterinary services, as consumer worthy of protection.

Algerian legislation, like comparative legislation, does not address the definition of the means used by the consumer to obtain goods and services, whether traditional or electronic. However, unlike the rest of the legislation, the consumer is distinguished by electronic means as defined in the E-Commerce Law No. (18-05) of (2018). Article (6) states that "any natural or legal person obtains a good or service for a fee or for free via electronic communication from an e-resource for the purpose of end use." According to the definition, the legislator has not made differs between the traditional consumer and the e-consumer only by contracting means, which is carried out in this place by electronic means.

#### 4. Conclusion

The key question was whether the consumer *acquis* contained a uniform consumer definition. The investigation of the consumer *acquis* exposed that there is no such definition yet. However, with respect to related laws, such as contract law, we found a more constant consumer definition. The examination of the European and Arab consumer protection laws aided to clear the ambiguity, and provided a better understanding of the legal consumer concept. In light of the previous we investigated the need and potentials of the formation of a constant consumer notion.

In conclusion, it is certain that no constant consumer definition exists today. However, the mainstream of consumer definitions share a common core, a natural person acting outside his commercial perspectives.

#### References

- [1] Abadi, Majd al-Din Muhammad ibn Yaqoub al-Fayrouzi (2008), *Al Qamous al-Muheet*, Cairo, Dar al-Hadith, p. 1704.
- [2] Abdul Rahman, Abdul Hakim Mustafa (1997), *Consumer Protection in Private International Law*, Cairo, Dar Al-Nahda Al-Arabiya, p. 14.
- [3] Abdullah, Linda (2008). The consumer and the professional are two different concepts, the first national forum on consumer protection in light of economic openness, Algeria, April 7-8, publications of the Institute of Legal and Administrative Sciences at the University Center in El-Wadi, p. 23.
- [4] Al Jeraisy, Khaleida Abdel Rahman (2006), *Consumer behaviour*, ed.3, Riyadh, Jeraisy Encyclopaedia of Distribution and Advertising, p. 42.
- [5] Al-Deeb, Mahmoud Abdel-Rahim (2011), *Civil Protection for the Consumer: A Comparative Study*, New University House, Alexandria, p. 11.
- [6] Al-Jaf, Alaa Omar (2017), *Legal mechanisms for consumer protection in electronic commerce contracts*, ed.1, Beirut, Al-Halabi human rights publications, p. 97.
- [7] Al-Rifai, Ahmed Mohamed Mohamed (1994), *The Civil Protection of the Consumer Against the Contractual Content*, Cairo, Dar Al-Nahda Al-Arabiya, p. 25.
- [8] Al-Sharabi, Mamoun Ali Abdo (2019), *Legal protection for the consumer on the Internet*, Cairo, the National Center for Legal Publications, p. 87-88.
- [9] Al-Zoubi, Awad Ahmed (2017), *Introduction to the Science of Law*, ed.4, Amman, Ithraa for Publishing and Distribution, p. 271.
- [10] Bawadli, Mohamed (2006), *Consumer Protection in Comparative Law: A Comparative Study with French Law*, Algeria, Dar Al-Kitab Al-Hadith, p. 21.
- [11] H. Schulte-Nolke and L. Meyer-Schwickerath, *The Notion of Consumer in EU Law*, 2014.
- [12] Hamdallah, Muhammad Hamdallah (1997), *Consumer protection in the face of arbitrary conditions in consumption contracts*, Cairo, a comparative study, Dar Al-Fikr Al-Arabi, p. 12.
- [13] Ibrahim, Abdel Moneim Moussa (2007), *Consumer Protection: A Comparative Study*, ed.1, Beirut, Al-Halabi Human Rights Publications,
- [14] Ibrahim, Khaled Mamdouh (2010), *The conclusion of the electronic contract*, ed.2, Alexandria, Dar Al-Fikr Al-Jami'i, p. 50.
- [15] J. Valant, (2015), *Consumer Protection in the EU, Policy Overview*, European Parliament, p. 4.
- [16] Manasra, Hanan (2018), *Rooting the meaning of the electronic consumer in legislation, jurisprudence: a comparative study*, In-depth Legal Research Generation Magazine, Issue 22, Feb., p. 105.