

## Unfair Terms in Commercial Contracts: A Comparative Study of French Law

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### Abstract

According to the theory of the autonomy of the will, human freedom and equality guarantees that the contract is fair and no one can refuse to execute the contract on the pretext that it is unfair or unjust. However, the proliferation of unequal contracts, such as labor and consumer contracts, has questioned the generality of this presumption and has led to protective regulations for protecting the weaker party of the contract. One of the important rules for the protection of consumers in the consumer acts of different countries is the possibility of removing unfair terms from the contract in order to re-establish a relative balance in the contractual relationship of the parties. However, the prohibition of unfair terms only in the consumer contracts is debatable, and It is a question that If there are such inequalities in the contracts between businesses, whether such terms should also be prohibited, or on the basis of the principle of contractual freedom and because of the commercial nature of these contracts, the contract should be binding on the parties, despite its unfair terms? In summary, it seems that prohibition of unfair terms should not be confined to consumer contracts, and if there are inequality in the bargaining power between the parties in commercial contracts, it seems necessary the prohibition of such unfair terms in these contracts too.

**Keywords:** Unfair Contract Terms; Abusive Clauses; Commercial Contracts; Businesses.

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