

Author:

Ahmad Hussein Alsharqawi^{1*},
Abd Alhade Mossa Hasan
Rshdan², Nabeel Mahdi
Althabhwawi³, Lobna
Abdalhusen Easa Al-Seedi⁴

Affiliation:

¹Faculty of Law, Universiti
Kebangsaan Malaysia (UKM),
Malaysia

²Faculty of Law, Amman Arab
University, Jordan

^{3,4}College of Law, Imam Jaafar
Al-Sadiq University (IJSU)
Baghdad, Iraq

Corresponding author:

*Ahmad_alsharqawi29@hotmail.com

Doi: 10.32332/milrev.v5i2.13530

Dates:

Received 29 January, 2026

Revised 29 April, 2026

Accepted 24 August, 2026

Published 31 August, 2026

Copyright:

© 2026. Ahmad Hussein
Alsharqawi et. al.,

This work is licensed

under [Attribution-ShareAlike 4.0](#)

[International](#)



Read Online:



Scan this QR code with your mobile
device or smart phone to read online

Force Majeure in the Contemporary Era: Comparative Codification and Foreign Cause Doctrine in Jordanian and French Law

Abstract: This article examines force majeure as a legal mechanism that limits the strict application of pacta sunt servanda when exceptional events render contractual performance impossible. The research problem lies in the absence of a clear, codified standard for force majeure in Jordanian law, where the doctrine is treated as a foreign cause under Article 261 of the Jordanian Civil Code, and its scope is largely shaped by judicial discretion. This raises uncertainty in distinguishing force majeure from hardship and other doctrines of changed circumstances. The article therefore asks: to what extent does the absence of codification of force majeure in Jordanian law affect legal certainty and judicial consistency compared with the codified French model? The study adopts a qualitative doctrinal legal method, using a descriptive-analytical and functional comparative approach. It relies on secondary legal materials, including statutory provisions, judicial decisions, legal commentaries, and relevant academic literature, which are analysed through doctrinal and comparative legal analyses. The findings show that French law, through Article 1218 of the Civil Code, provides a structured framework based on unforeseeability, irresistibility, and the prevention of contractual performance, thereby enhancing predictability while preserving judicial flexibility. By contrast, Jordanian law recognises force majeure but lacks an independent statutory definition or detailed criteria, which may lead to inconsistent application. The article contributes to comparative contract law by clarifying the relationship between codification, judicial discretion, and legal certainty. It argues that Jordanian law would benefit from clearer legislative guidance or from authoritative judicial criteria to improve coherence, contractual stability, and fairness in exceptional circumstances.

Keywords: Comparative Law; Force Majeure; Foreign Cause Doctrine; French Law; Jordanian Law.

INTRODUCTION

Contracts are essentially bound by the principle of *pacta sunt servanda*, which means that the terms of the contract are to be performed in good faith. However, it is also understood that extraordinary and unforeseen circumstances may make the performance of contractual duties impossible or excessively burdensome.¹ Therefore, the doctrine of *force majeure* is one of the most important corrective measures developed by contract law to address cases in which a significant change in circumstances totally upsets the balance of the contract. It is through such doctrines that legal systems aim at maintaining a balance between the stability of contracts and fairness, so that parties do not become responsible for duties that have become impossible to perform due to unforeseeable external events.² However, uncertainty arises when legal systems differ in how they define the threshold for exceptional events that justify non-performance, particularly where *force majeure* is not expressly codified.

Force majeure has been firmly established as a separate legal doctrine within the French legal system. It is specifically codified under Article 1218 of the French Civil Code, revised in 2016, which sets out three cumulative criteria for defining *force majeure*: an event beyond the control of the debtor; unforeseen at the time when the contract was entered into; and is irresistible- reasonable efforts could not prevent or lessen its effects.³ defines *force majeure* in contractual matters as follows: “There is *force majeure* in contractual matters where an event beyond the control of the debtor, which could not reasonably have been foreseen at the time of the conclusion of the contract and whose effects cannot be avoided by appropriate measures, prevents performance of his obligation by the debtor. When the hindrance is temporary, the performance of the obligation is

¹ Ahmad Alsharqawi et al., ‘Red Sea Crisis and the Problem of Frustrated Contracts’, *Malaysian Journal of Syariah and Law* 14, no. 1 (2026): 126–141, <https://doi.org/10.33102/mjssl.vol14no1.1008>.

² Marcel Fontaine and Filip De Ly, *Drafting International Contracts: An Analysis of Contract Clauses*, 2nd ed. (Brill Nijhoff, 2010), https://brill.com/display/book/9789047430230/Bej.9789004176799.i-654_001.xml.

³ French Civil Code, Article 1218, as amended by Ordinance No. 2016-131 of 10 February 2016, https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000032041431.

suspended unless the resulting delay would justify the termination of the contract. When the hindrance is definitive, the contract is terminated automatically, and the parties are discharged from their obligations under the conditions set out in articles 1351 and 1351-1. In *Elisabeth v Société Nationale des Chemins de fer Français SNCF*, French jurisprudence, like the common law, has tended to adopt a strict construction of these requirements, stressing throughout that force majeure implies not just difficulty or increased economic burden but an objective and absolute impossibility of performance.⁴

The COVID-19 pandemic was an unprecedented test for the application of Article 1218 of the French Civil Code. In its 2020 decision, the Colmar Court of Appeals held that the governmental restrictions imposed in response to the pandemic were in force majeure, satisfying the twin conditions of externality, unforeseeability, and irresistibility. This judicial stamp marked an important application of the codified definition of force majeure in an atypical context, confirming that measures related to a pandemic could, in certain cases, exonerate the debtor from his obligation when execution has become objectively impossible.⁵

In contrast to the French codified model, the Jordanian Civil Code adopts a more flexible and open-ended approach to force majeure. Article 261 of the Jordanian Civil Code conceptualises force majeure as a form of *foreign cause* that exempts the debtor from liability when the event is beyond the debtor's control and renders performance impossible.⁶ "If a person proves that the damage was caused by a foreign cause which he has nothing to do with, such as force majeure, the act of a third party, or the fault of the victim, he is not obliged to pay compensation unless there is a text or agreement to the contrary"). Unlike French law, however, Jordanian legislation does not provide a codified definition or a structured set of cumulative criteria governing force majeure. Instead, the determination

⁴ *Elisabeth v Société Nationale des Chemins de fer Français SNCF* [1993] FCC 92-11669 (French Court of Cassation, 5 January 1993) Recueil Dalloz [1993], p. 219.

⁵ Colmar Court of Appeal. (2020, March 12), Decision No. 20/01098, <https://www.doctrine.fr/d/CA/Colmar/2020/C8A8F3A305EEEEBB31F24>.

⁶ Jordan Civil Code, Law No. 43 of 1976, § Section 261.

of whether an event constitutes a force majeure occurrence is largely left to judicial assessment.⁷

Jordanian courts have recognised administrative decisions and governmental measures as force majeure events when they satisfy the requirements of unpredictability and irresistibility. Nevertheless, judicial practice reveals a degree of inconsistency, as courts sometimes require absolute impossibility of performance, while in other cases they allow for contractual adaptation where performance becomes excessively onerous. This discretionary approach underscores the absence of a clear doctrinal threshold distinguishing force majeure from other mechanisms addressing changed circumstances.⁸

The research problem, therefore, lies not in the absence of judicial recognition of force majeure in Jordanian law, but in the absence of a clear, codified legal standard governing its scope, conditions, and effects. This lack of legislative precision creates uncertainty for courts and contracting parties, particularly when distinguishing force majeure, which requires objective impossibility, from hardship or other doctrines of changed circumstances, which may involve excessive onerousness rather than impossibility.⁹ This problem requires further research because inconsistent judicial application may undermine contractual predictability, weaken legal certainty, and affect the balance between contractual stability and fairness in exceptional circumstances.

While force majeure is a concept of foreign cause integrated into modern contract laws through rules of judicial discretion, comparative studies have largely addressed codified models. Even basic attention has not been paid to jurisdictions in which an open-ended foreign cause operates as a core component justified mainly by rulemaking about

⁷ Ahmad Alsharqawi et al., "The Role of General Assembly Resolutions to the Development of International Law," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 2 (2021): 1–6, <https://www.abacademies.org/articles/the-role-of-general-assembly-resolutions-to-the-development-of-international-law-10426.html>.

⁸ Alsharqawi et al., 'Red Sea Crisis and the Problem of Frustrated Contracts'

⁹ Ahmad Al-Sharqawi, *Between Onerousness and Impossibility: A Comparative Study of the Doctrine of Changed Circumstances under the Jordanian Civil Law, with Reference to French Law and the CISG Framework* (PhD thesis, Universiti Kebangsaan Malaysia, 2025).

changed circumstances from the bench. Thus, there is very little clarity on the legal threshold separating hardship and other doctrines dealing with changed circumstances from force majeure itself. In Jordan, the lack of a clear definition in positive law has led to inconsistent judicial application and uncertainty among contracting parties.¹⁰ On the French model's side stands structured legislative positivism that ensures predictability without encroaching upon necessary flexibility at the judicial level. This article redresses this void through a functionally oriented comparative analysis of Jordanian and French positivist/codified legislation, with a special focus on issues related to certainty arising from codification.

While this holds in the core area of modern contract law on force majeure, comparative studies have largely focused on codified models, particularly those within civil law systems, and have paid scant attention to jurisdictions in which force majeure is an open-ended foreign cause construed primarily through judicial discretion. This study thus helps clarify certain aspects hitherto surrounded by much academic debate and practical confusion: what is the legal threshold that separates, for instance, hardship (a change of circumstances) from other doctrines dealing with changes of circumstances, such as force majeure itself, in the Jordanian context, where no definition has been codified? This article therefore examines the following research question: to what extent does the absence of codification of force majeure in Jordanian law affect legal certainty and judicial consistency compared to the codified model adopted under French law?

METHOD

This research employs a qualitative doctrinal legal method¹¹. It is descriptive in nature, explaining the legal concept of force majeure and its treatment under Jordanian and French law, and analytical in approach, examining the legal consequences of codification and non-codification. The research also adopts a functional comparative

¹⁰ Alsharqawi et al., "The Role of General Assembly Resolutions to the Development of International Law".

¹¹ Mark Van Hoecke, ed., *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* (Oxford: Hart Publishing, 2017).

approach to examine how both legal systems regulate and apply the doctrine of force majeure in contractual obligations.¹² The data used in this study are secondary legal materials, consisting of statutory provisions, judicial decisions, legal commentaries, and relevant academic literature. These materials are analysed through doctrinal content analysis and comparative legal analysis to identify applicable legal standards, examine judicial interpretation, and assess the impact of codification on legal certainty and contractual stability.

This framework methodologically subsequently allows examining the concept of force majeure as a foreign cause in the Jordanian and French legal systems. The concept of force majeure is a foreign cause of action in both the Jordanian and French legal systems. The study employs a descriptive-analytical approach combined with a functional comparative method, enabling a systematic analysis of legal rules, judicial interpretations, and doctrinal developments across both jurisdictions. The study relies on secondary data sources, including texts of the law (primarily Article 1218 of the French Civil Code and Article 261 of the Jordanian Civil Code), and jurisprudence emanating from the Courts of Cassation in France and Jordan. Academic writings, legal commentaries, and comparative law studies are used to support and situate the analysis.

The methodology used is content analysis of legal doctrines and comparative legal analysis. The study will look into the legal provisions and case law to find out the criteria for force majeure, particularly externality, unforeseeability, and irresistibility, and how these criteria have been interpreted. The comparative approach will examine the effects of codification in French law, as opposed to reliance on judicial discretion in Jordanian law, with particular attention to the law's certainty, consistency, and stability. In discussing the mechanism for analysing Sharia-related aspects, the study applies jurisprudential complementarity as necessary. It looks into the general maxims of Islamic jurisprudence, notably those on impossibility (*al-istihalah*), hardship (*al-mashaqqah tajlib al-taysir*), and the

¹² Mathias Siems, *Comparative Law*, 3rd ed. (Cambridge University Press, 2022), <https://doi.org/10.1017/9781108892766>.

prevention of harm (la darar wa la dirar). These maxims serve as interpretive tools to determine whether the concept of force majeure aligns with broader principles of justice and equity. This includes identifying relevant fiqh principles, reviewing classical and modern juristic positions, and appraising their relevance to contemporary contractual relationships arising from unforeseen events. This integrated methodological framework will provide a comprehensive and balanced analysis by drawing on positive law, judicial practice, and Sharia principles to assess the role of force majeure in achieving the objectives of legal certainty and justice in contract law.

RESULTS AND DISCUSSION

Before proceeding to an in-depth comparative analysis, the paper highlights major findings that address the research question. French law, through Article 1218 of the French Civil Code, which addresses the doctrines of unforeseeability, irresistibility, and the prevention of contractual performance, provides a clearer and more structured framework for force majeure. In the second place, Jordanian law recognises force majeure as a foreign cause under Article 261 of the Jordanian Civil Code. However, it does not provide an independent codified definition or detailed criteria for its application. This third silence in the statute creates uncertainty in distinguishing force majeure, which requires objective impossibility, from hardship and other doctrines of changed circumstances, which are generally based on excessive onerousness. The paper therefore establishes that clearer legislative guidance or authoritative judicial criteria would enhance the application of force majeure, thereby enhancing legal certainty, contractual predictability, and consistency in Jordanian law.¹³

¹³ Al-Sharqawi, *Between Onerousness and Impossibility: A Comparative Study of the Doctrine of Changed Circumstances under the Jordanian Civil Law, with Reference to French Law and the CISG Framework*.

THE CONCEPT OF FORCE MAJEURE: HISTORICAL FOUNDATIONS

The concept of force majeure finds its earliest roots in Roman law, particularly in the notions of *vis major* and *casus fortuitus*.¹⁴ These referred to extraordinary events beyond human control that could not be anticipated or resisted. Roman jurists recognised that liability should not attach where performance was rendered impossible by external, unavoidable occurrences.¹⁵ This early formulation laid the foundation for the later civil-law understanding of force majeure as an exceptional mechanism that relieves the debtor of liability in cases of objective impossibility, as established in the French Civil Code (the Napoleonic Code) in 1804.¹⁶

In civil-law jurisdictions, force majeure traditionally serves as a justification for non-performance when contractual obligations become objectively impossible to perform. This approach is grounded in the principle *nemo tenetur ad impossibile*, which excludes liability in cases of impossibility.¹⁷ While related doctrines such as *rebus sic stantibus* address fundamental changes in circumstances, force majeure has historically been confined to situations of objective impossibility rather than mere difficulty of performance.¹⁸ The concept of force majeure within the French legal tradition was mainly a product of judicial practice, with almost no legislative intervention defining its contours until the courts found adequate substantive criteria to distinguish it from other causes of non-performance. Before

¹⁴ R. Taschereau, "Theory of Fortuitous Events and Force Majeure in Obligations" (PhD thesis, Université Laval, 1901).

¹⁵ Peter J. Mazzacano, "Force Majeure, Impossibility, Frustration & the Like: Excuses for Non-Performance; the Historical Origins and Development of an Autonomous Commercial Norm in the CISG," *Nordic Journal of Commercial Law*, no. 2 (2011): 1-54, <https://doi.org/10.5278/ojs.njcl.v0i2.3001>.

¹⁶ Caslav Pejovic, "Civil Law and Common Law: Two Different Paths Leading to the Same Goal," *Victoria University of Wellington Law Review* 32, no. 3 (2001): 817-842, <https://doi.org/10.26686/vuwlr.v32i3.5873>.

¹⁷ Mazzacano, "Force Majeure, Impossibility, Frustration & the Like: Excuses for Non-Performance; the Historical Origins and Development of an Autonomous Commercial Norm in the CISG".

¹⁸ Federica I. Paddeu, "A Genealogy of Force Majeure in International Law," *British Yearbook of International Law* 82, no. 1 (2011): 381-494, <https://doi.org/10.1093/bybil/brs005>.

the 2016 reform, this was essentially how force majeure was governed in French law for more than a century.¹⁹

Before the reform of 10 February 2016, there was no explicit provision defining force majeure in the French Civil Code. The content and construction of its conditions were therefore essentially a matter for judicial interpretation, particularly by the Court of Cassation, which has gradually constructed them. Therefore, case law has played, and continues to play, an important role in developing the concept within French positive law.

In French legal theory, force majeure is generally understood as an exceptional external event beyond the debtor's control that is unforeseeable and irresistible, rendering the performance of contractual obligations objectively impossible. Although the French Civil Code of 1804 did not provide an explicit definition of force majeure, a doctrinal understanding of force majeure developed alongside the Code and informed judicial interpretation before legislative codification, ultimately contributing to the criteria later reflected in Article 1218 of the French Civil Code.²⁰

The Court of Cassation's variable case law played a central role in establishing the prerequisites for force majeure in French law.²¹ In an opinion presented to the plenary assembly in April 2006, de Gouttes, First Attorney General of the Court of Cassation in the case *Société La Briocherie v Mme Henriette Mestre*, emphasised that force majeure, whether in contractual or tortious liability, is characterised by three elements: externality, unforeseeability, and irresistibility.²² French jurisprudence has long considered those elements cumulative, even though French courts have not systematically enunciated or

¹⁹ François Chénéde, *Le Nouveau Droit des Obligations et des Contrats: Consolidations, Innovations, Perspectives*, 2nd ed. (Paris: Dalloz, 2018), 345, <https://univ-lyon3.hal.science/hal-02087164>.

²⁰ Stéphanie Porchy-Simon, *Droit civil: Les obligations* (Paris: Dalloz, 2018), https://catalogue-bibliotheque.sciencespo.fr/discovery/fulldisplay/alma991002053909705808/33USPC_SPO:SPO.

²¹ Report to the President of the Republic Relating to Ordinance No. 2016-131 of 10 February 2016 on the Reform of Contract Law, the General Regime and Proof of Obligations, JORF No. 0035, 11 February 2016.

²² *Société La Briocherie v. Mme Henriette Mestre, Veuve Frey*, French Court of Cassation, Plenary Assembly, Decision No. 05-17.690, 21 December 2006, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007055080>.

applied all three criteria in every case. This lack of consistency has triggered and continues to trigger doctrinal debate over the relevance and possible independent role of certain elements, mainly externality and unforeseeability. It also reveals the inadequacy of a purely jurisprudential construction of force majeure.²³

The reform enacted on 10 February 2016 sought to formalise the jurisprudential solutions that had emerged from case law, particularly in *RATP v Brugiroux*.²⁴ Revised Article 1218 codifies force majeure by emphasizing the requirements of unforeseeability and irresistibility, as seen in the case of *Société La Briocherie v Mme Henriette Mestre*.²⁵ While the provision no longer expressly lists externality as an autonomous criterion, this element has not been entirely abandoned; rather, it is implicitly reflected in the assessment of whether the event lies beyond the debtor's control. Force majeure, therefore, has not been explicitly defined in Jordanian legislation. It is only referred to indirectly as a type of foreign cause under Article 261 of Jordanian Civil Law No. 43 for the year 1976, without any independent provision governing its scope or conditions. This marks the difference in legislative technique between French and Jordanian law and also constitutes one aspect of comparison that will be analysed further below, in addition to setting out the very different paths both systems seem to have taken at first glance.

In several Arab civil law systems, including Jordan,²⁶ the legislature has refrained from providing a precise statutory definition of force majeure, leaving its contours largely to judicial interpretation. Within this context, legal scholarship has played a significant role in articulating the concept. Qasim defines force majeure as an unforeseeable and uncontrollable external event that renders the performance of contractual obligations

²³ François Terré et al., *Droit civil: Les obligations*, 12th ed. (Paris: Dalloz, 2018), https://books.google.com/books/about/Droit_civil_Les_obligations_12e_%C3%A9d.html?id=ufp0DwAAQBAJ.

²⁴ Colmar Court of Appeal. (2020, March 12), Decision No. 20/01098.

²⁵ French Court of Cassation, Plenary Assembly, *Société La Briocherie v. Mme Henriette Mestre, Veuve Frey*, Decision No. 05-17.690, 21 December 2006, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007055080>.

²⁶ Moayd Husni Ahmad Al-Khawaldah et al., "Penal Liability for the Oil Leak Incident 'Heavy Fuel' in the Jordanian Port of Aqaba and Its Impact on the Environment," *Journal of Environmental Management and Tourism* 14, no. 3 (2023): 754–758, [https://doi.org/10.14505/jemt.14.3\(67\).14](https://doi.org/10.14505/jemt.14.3(67).14).

impossible while Hussein Amer similarly characterizes it as an event beyond the will of the contracting parties and incapable of prevention or avoidance. These doctrinal definitions reflect a common understanding of force majeure as an objective impossibility rather than mere difficulty of performance.²⁷

Under Jordanian civil law, the general rule on contracts is that parties shall perform their obligations in good faith and become liable for non-performance. There is also no detailed statutory definition of force majeure in Jordanian legislation, as there is under French law. The concept primarily enters through an incidental discussion within the notion of a foreign cause, as reflected in Article 261 of the Jordanian Civil Code, leaving great latitude for judicial interpretation. This legislative choice betrays a marked reluctance to enumerate exhaustively either the events constituting force majeure or the changed circumstances; thus, it vests courts with a central role in shaping the scope and content of the doctrine of application.²⁸

Jordanian Court of Cassation jurisprudence has defined force majeure as an unforeseeable and unavoidable event that cannot be prevented or overcome, and that renders the performance of contractual obligations objectively impossible.²⁹ In several judgments, the Court emphasised that force majeure may arise from events beyond the debtor's control, including binding administrative orders that must be executed, provided that such measures satisfy the criteria of unpredictability and irresistibility.³⁰ The approach reflects a broad understanding of force majeure, grounded more in facts and judicial discretion than in any statutory definition. This again clearly demonstrates the lack of a

²⁷ Hussein Amer, *Al-Mas'uliyah al-Madaniyyah: Al-Mas'uliyah al-Taqsiriyyah wa-al-'Aqdiyyah* [Civil Liability: Tortious and Contractual Liability] (Mu'assasat Al-Ma'arif for Printing and Publishing, 1979).

²⁸ Enas Qutieshat, "The Impact of the Corona Pandemic on the Performance of Contractual Obligations under the Provisions of Jordanian Defense and Civil Laws," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 3 (2021): 1-13, <https://www.abacademies.org/articles/The-impact-of-the-corona-pandemic-15440044-24-3-660.pdf>.

²⁹ Jordanian Court of Cassation, Decision No. 6143/2018, 31 October 2018, Qistas Publication.

³⁰ Jordanian Court of Cassation, Decision No. 4272/2019, 28 November 2019, Qistas Publication.

unified statutory threshold governing force majeure under Jordanian law, which relies mainly on judicial interpretation.³¹

However, it was mainly through conceptual influence and reception by doctrine and the judiciary, rather than through actual legislative transplantation, that French civil law introduced the notions of force majeure and unforeseen circumstances into Jordanian contract law. Articles 1147 and 1148 of the French Civil Code previously contained references to force majeure and unforeseen circumstances. Still, the Jordanian legislature did not adopt a codified definition of either notion. Therefore, under positive jurisprudence, today's external-and-uncontrollable-event-type notion that makes performance objectively impossible is still largely construed through case law as a matter principally of judicial determination.³² This is a major difference in legislative technique between the two approaches for purposes of comparative analysis.

THE LEGAL REQUIREMENTS OF FORCE MAJEURE: A COMPARATIVE PERSPECTIVE

The recognition of force majeure under French law is not automatic.³³, as no event is presumed to constitute force majeure per se. Instead, each situation must be assessed in light of its specific factual context, with trial judges exercising exclusive discretion to evaluate whether the relevant criteria are satisfied based on the evidence presented. This case-by-case assessment reflects the inherently contextual nature of force majeure determination, as seen in *Bank Sepah v Overseas Financial Ltd and Oaktree Finance Ltd*.³⁴

³¹ Jordanian Court of Cassation, Decision No. 1473/2016, 23 June 2016, Qistas Publication.

³² Ahmad Mohammad El-Refaie et al., "The Extent of Bound or Unbound United Nations Security Council by Law," *Journal of Legal, Ethical and Regulatory Issues* 24, no. S4 (2021): 1-7, <https://www.abacademies.org/articles/the-extent-of-bound-or-unbound-united-nations-security-council-by-law-12251.html>.

³³ Julia Heinich, "L'incidence de l'épidémie de coronavirus sur les contrats d'affaires: de la force majeure à l'imprévision," *Recueil Dalloz*, no. 11 (2020): 611-617.

³⁴ *Bank Sepah v. Overseas Financial Ltd and Oaktree Finance Ltd*, French Court of Cassation, Plenary Assembly, Decision No. 18-18.542, 10 July 2020, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000042128145>.

Both the French and Jordanian legal systems require three cumulative conditions for an event to qualify as force majeure: externality, unforeseeability, and irresistibility. In principle, the co-existence of these elements within the concept of force majeure itself is necessary. However, their interpretation and practical application differ from one legal system to another. This section will therefore discuss these requirements from a comparative perspective between French and Jordanian law, pinpointing similarities and differences.

Externality (Foreign Cause) in Force Majeure

Externality is a basic condition of force majeure since the event must come from outside the sphere of activities and control of the debtor. In practice, liability exemptions commonly found in contracts for the carriage of goods by land and sea, such as “acts of God,” “acts of war,” and “authority of law,” are traditionally classified as external events.³⁵ On the other hand, events coming from within the operational domain of the debtor, including inherent or hidden defects in goods under his control, do not qualify as force majeure. A seller cannot, therefore, invoke force majeure to escape liability for defects that were intentionally concealed or known at the time performance was due.³⁶

However, civil law courts have found that certain events technically inside the debtor’s sphere can be considered external if they are outside his effective control. For example, in the famous Peugeot v SNCF case, strikes were recognised by judges as a force majeure event involving employees. This shows how flexible and contextual this criterion of externality is.³⁷ French courts consider externality flexibly and allow events internal to the person, such as illness, to constitute force majeure, provided they are beyond the debtor's control and render performance objectively impossible. Illness was not considered

³⁵ *Société Coris v. Société Alcatel Câble France*, French Court of Cassation, Decision No. 98-17.015, 6 March 2001, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007420096>.

³⁶ *Madame X v. Insurance Company*, French Court of Cassation, Decision No. 04-20.550, 24 May 2006, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007504738>.

³⁷ *Société Automobiles Peugeot and Société Automobiles Citroën v. Société Nationale des Chemins de fer Français (SNCF)*, French Court of Cassation, Social Chamber, Decision No. 97-18.215, 11 January 2000, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007042018/>.

a force majeure event before 1990, but subsequent case law held that very serious and unforeseeable medical conditions could constitute force majeure. Judicial examples include cases where a student's illness prevented the continuation of contractual studies, as seen in the case *Madame X v the École Saint-Louis*,³⁸ a tour guide's sudden illness led to the cancellation of a tourist trip, as seen in the case *Mr X v Société Breebos Motors*,³⁹ and a driver's unexpected fainting episode resulted in a traffic accident.⁴⁰ These decisions illustrate that, under specific circumstances, illness may be treated as an external event when it lies beyond the debtor's effective sphere of control.

In a departure from firmly establishing an externality requirement, the French Court of Cassation found in favor of *Mittenaere v. Lucas and Pacholczyk*, involving a contractual dispute where sudden illness befell the debtor during performance eventually making performance impossible and wherein the creditor became aware of such illness within their contractual relationship, against reasoning provided by its appellate court but held that indeed this was an instance to which former Article 1148 of the French Civil Code could apply on force majeure. In dismissing the compensation claim, it affirmed that the origin need not be strictly external to qualify as force majeure, provided it occurs unexpectedly. It is beyond the debtor's control, who is otherwise supposed to be entirely responsible.⁴¹

In the same line of reasoning, the Court of Cassation found that the appellate court had misapplied the force majeure doctrine by misconstruing the legal effects of a debtor's illness. By reversing the appellate court's decision, the court reaffirmed that sickness may constitute force majeure when it arises unexpectedly during execution and renders performance impossible, regardless of its internal origin. This stand was later confirmed by

³⁸ *Madame X v. École Saint-Louis*, French Court of Cassation, Decision No. 96-13.316, 10 February 1998, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007039517>.

³⁹ *Mr X v. Société Breebos Motors*, French Court of Cassation, Decision No. 00-10.192, 6 November 2002, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007044296>.

⁴⁰ French Court of Cassation, Criminal Chamber, Unreported Case, Decision No. 04-87.813, 15 November 2005, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007071078>.

⁴¹ *Mr. Mittenaere v. Mrs. Lucas and Pacholczyk*, French Court of Cassation, General Assembly, Decision No. 02-11.168, 14 April 2006, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007051847>.

the Court of Cassation in *Société Figeac Aéro v Électricité de France (EDF)*, where force majeure was defined strictly within impossibility- an unforeseeable event at the time the contract is concluded renders performance impossible- thus externality not being referenced as an independent requirement for force majeure, hence supporting a functional non-formalistic interpretation thereof.⁴²

This judicial trend continued until it was broken by the decision of the French Court of Cassation in the case between *Mr X and Fonds de développement des archipels*, where an external event as a condition of force majeure was expressly reintroduced by the court itself: “Force majeure may arise when, at the moment of conclusion, a contract becomes impossible to perform because of some unforeseeable external event.” The fact that this case concerns the termination of an employment contract does not detract from its significance in showing how far courts have travelled down the road toward rediscovering externality as a separate criterion within the structure for analysing force majeure.⁴³

The new focus on externality inspired a doctrinal challenge as to whether it was, in fact, a true element of force majeure. The Court of Cassation later again confirmed the relevance of an external event within the framework of force majeure.⁴⁴ Legislative developments were inspired by these judicial changes in contractual law, leading to the amendment of Article 1218 in 2016. While the legislation does not expressly list externality as an independent requirement, it recognises the changing jurisprudential attitude towards it. French courts have also applied the externality requirement in the context of the COVID-19 pandemic. For example, in a leading decision, the Colmar court recognised COVID-19 as an external, unforeseeable and irresistible event; thus, quarantine measures that prevented one party from fulfilling procedural obligations owed to another constituted

⁴² *Société Figeac Aéro v. Électricité de France (EDF)*, French Court of Cassation, First Civil Chamber, Decision No. 07-17.134, 30 October 2008, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000019715062>.

⁴³ *Mr. X v. Fonds de développement des archipels*, French Court of Cassation, Decision No. 10-17.726, 16 May 2012, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000025897101>.

⁴⁴ French Court of Cassation. Unreported Case, Decision No. 12-23.126, 15 October 2023, Legifrance, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000028098046>.

force majeure.⁴⁵ The Douai court also found that flight cancellations due to government COVID-19 restrictions were sudden and thus constituted force majeure, thereby absolving the airline of contract liability.⁴⁶ These decisions confirm that pandemic-related administrative measures may satisfy the externality criterion when they escape the debtor's control and directly prevent contractual performance.

Nevertheless, the Court of Cassation has consistently emphasised that the mere fact that an event lies beyond the debtor's control is insufficient to establish force majeure.⁴⁷ The decisive criterion remains whether the event renders contractual performance objectively impossible, as seen in *Simone S. v M. Etienne and Mme Madeleine*.⁴⁸ Where an external event is neither sudden nor definitively prevents performance, French courts have declined to apply force majeure and have instead suspended contractual obligations until the event's effects cease. French courts have developed, and continue to develop, through legislation a well-constructed concept of the external event, while Jordanian law meets the requirement of an external event through a different conceptual approach based on the notion of a foreign cause.

Article 261 of the Jordanian Civil Code technically reflects its legislative vision regarding external events within the general framework of force majeure. It does not lay down particular prerequisites for applying a condition of force majeure but focuses on impossibility arising out of some foreign cause. In such an event, the legislature breaks the causal link between non-performance and conduct by the debtor where an event happens totally independent from his will and outside his sphere or scope of control. This places upon him (the debtor) a burden to prove both externals about that event, as well as the

⁴⁵ Colmar Court of Appeal, Decision No. 20/01098, 12 March 2020 <https://www.doctrine.fr/d/CA/Colmar/2020/C8A8F3A305EEEBB31F24>.

⁴⁶ Court of Appeal of Douai, Decision No. 20/00395, 4 March 2020, https://www.dalloz.fr/documentation/Document?id=CA_DOUAI_2020-0304_2000395&FromId=AJDI_CHRON_2020_0611#.

⁴⁷ French Court of Cassation, Unreported Case, Decision No. 1969, 12 November 1969, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000006981670>.

⁴⁸ *Simone S. v M. Etienne and Mme Madeleine*, French Court of Cassation, Decision No. 79-12.710, 24 February 1981, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007007126/>.

absence of either fault or negligence in performance of the contractual obligation.⁴⁹ The most typical illustrations are natural phenomena such as lightning strikes or volcanic eruptions, which are entirely independent of human intervention.⁵⁰

Under Jordanian law, force majeure may be invoked to exclude contractual liability only where the event relied upon is wholly independent of the debtor's actions and lies entirely outside their sphere of control. Events originating from the debtor's own activity or internal operations do not qualify as force majeure and therefore do not relieve the debtor from liability. This approach mirrors French legal doctrine, which similarly excludes internal defects inherent in an object or means of performance from the scope of force majeure. Accordingly, where a traveller sustains injury during transportation due to a defect in the carrier that could have been detected through ordinary diligence, both Jordanian and French law would attribute liability to the carrier.

Jurisprudence of the Jordanian Court of Cassation clarified very well that an event coming from within the domain or sphere of the debtor will not be considered force majeure to satisfy its element of externality. In this respect, it ruled that a burst tire that later becomes damaged is not an irresistible force capable of exempting liability because the incident arose within the car itself, not from outside it.⁵¹ This reasoning is reflected in the principles under which contracting parties remain responsible for events attributable to their own conduct or operational sphere.

These judicial examples demonstrate that, although the Jordanian legislature does not expressly enumerate externality as a distinct condition of force majeure, the requirement is firmly embedded in judicial interpretation through the application of Article 261 of the Civil Code. Rather than adopting a formalised definition akin to the French model, Jordanian law relies on a functional assessment of whether non-performance

⁴⁹ Abd al-Majid Abd al-Hamid al-Hakim, *Al-Wajiz fi Sharh al-Qanun al-Madani: Masadir al-Iltizam* [A Concise Explanation of Civil Law: Sources of Obligations], vol. 1 (Amman: National Library, 2007).

⁵⁰ *Mr. X v. Fonds de développement des archipels*, French Court of Cassation, Decision No. 10-17.726, 16 May 2012.

⁵¹ Jordanian Court of Cassation, Decision No. 1998/2025, 30 June 2025, Qistas Publication.

resulted from a genuinely external factor beyond the debtor's control, thereby justifying the exclusion of contractual liability.⁵²

The jurisprudence of the Jordanian Court of Cassation has adopted a contextual approach to determining whether a fire constitutes force majeure, based on its origin and the extent of the debtor's control over it. In one judgement, it outlined that: "A fire caused by machinery or energy sources used in industrial or commercial premises is not considered force majeure. Such incidents fall within the sphere of control and operational responsibility of the debtor unless an uncontrollable natural disaster takes place."⁵³ On the other hand, it was found to be a case where static electricity resulted from strong winds – an external natural force- that happened all at once without any negligence on the part of the debtor. The court also ruled that the burning of adjacent warehouses may be considered an external and unforeseeable event if it is proven that the spread was beyond the debtor's control (Jordanian Court of Cassation, 2022).⁵⁴ Therefore, under Jordanian law, rulings like these show that for something to be considered external, there must be an analysis of its origin and how far it can be attributed to conduct by the debtor or any operational sphere applicable to him.

From a comparative perspective, both French and Jordanian law require that the event giving rise to force majeure lie outside the debtor's sphere of control. However, while French jurisprudence has gradually relaxed the formal requirement of externality in favor of a functional assessment centered on control and impossibility, Jordanian law anchors the notion of externality within the concept of a foreign cause under Article 261 of the Civil Code. In both systems, the decisive factor remains whether the event can be attributed to the debtor's conduct or to the debtor's operational domain.⁵⁵

⁵² Nabeel Mahdi Althabhwawi et al., "Force Majeure in Smart Contracts: A Mixed-Methods Analysis of Legal Challenges", *IEEE Access* 14 (2026): 36975-92, <https://doi.org/10.1109/ACCESS.2026.3669546>.

⁵³ Jordanian Court of Cassation, Decision No. 964/2019, 15 March 2019, Qistas Publication.

⁵⁴ Jordanian Court of Cassation, Decision No. 2094/2022, 25 July 2022, Qistas Publication.

⁵⁵ Anan Shawqi Younes and Ahmad Hussein Alsharqawi, "The Legal Education Experience during COVID-19 Pandemic," *Review of International Geographical Education Online* 11, no. 6 (2021): 1029-36, <https://researcher.life/journal/review-of-international-geographical-education-online/29494>.

Unforeseeability as a Requirement of Force Majeure

In addition to being external, force majeure under civil law requires that the event be unforeseeable and irresistible.⁵⁶ Unforeseeability is assessed at the time of contract formation, as a debtor who could reasonably anticipate an event is expected to account for it through contractual provisions.⁵⁷ Accordingly, the decisive question is not whether the event was conceivable in the abstract, but whether it could reasonably have been foreseen by the parties at the time the contract was concluded.⁵⁸ Although certain events, such as wars, floods, fires, illnesses, or thefts, may be theoretically predictable, their qualification as force majeure depends on the presence of exceptional circumstances characterized by abnormality, surprise, and rarity. These events do not inherently constitute force majeure; rather, they may be classified as such only where their occurrence and impact could not reasonably have been anticipated in light of the specific circumstances of the case.⁵⁹

This approach is reflected in the revised Article 1218 of the French Civil Code, which provides that force majeure arises when an event was unforeseeable at the time of contract formation. The reference to what is “foreseeable” or “reasonably foreseeable” indicates that unforeseeability is assessed on a relative basis. In line with prior jurisprudence, an event need not be entirely unexpected to qualify as force majeure, as seen in the cases *City of Lyon v Michalon and Vidal*.⁶⁰

Whereas early French case law required absolute unforeseeability,⁶¹ Contemporary judicial practice has adopted a more flexible, objective standard based on the reasonable measures that could have been taken to anticipate the harmful event, as seen in *Madame*

⁵⁶ Nibrosu Rohid et al., ‘Reconstructing the Legal Enforcement Framework for Digital Activism in an Era of Technological Disruption’, *Nusantara: Journal of Law Studies* 5, no. 2 (July 2026): 881-901, <https://doi.org/10.66325/nusantaralaw.v5i2.236>.

⁵⁷ Anan Shawqi Younes and Ahmad Hussein Alsharqawi, “The Legal Education Experience during COVID-19 Pandemic,”.

⁵⁸ Terré, et al., *Droit Civil Les Obligations*. 12e Éd.

⁵⁹ Philippe Malaurie et al., *Droit des obligations*, 11th ed. (Paris: LGDJ/Lextenso, 2020), https://openlibrary.org/works/OL43839379W/Droit_des_obligations.

⁶⁰ *City of Lyon v. Michalon and Vidal and their insurer*, Le Continent, French Court of Cassation, Decision of 6 July 1960, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000006953746/>.

⁶¹ Terré, et al., *Droit Civil Les Obligations*. 12e Éd.

X v Insurance Company.⁶² Accordingly, in a dispute between *Madame X v Insurance Company*, courts assess whether a diligent debtor could reasonably have foreseen and guarded against the occurrence at the time of contracting (French Court of Cassation, 2002).⁶³ This reasoning was affirmed by the Court of Cassation in *Elisabeth v SNCF*. In that case, a passenger travelling on a Geneva–Nice train was assaulted and had her jewelry stolen. The Court held that assaults during transportation are not unforeseeable events, as the risk of such incidents is inherent in passenger transport. Consequently, the carrier could not invoke force majeure to escape liability, given its obligation to ensure the highest level of passenger safety.⁶⁴

Within this jurisprudential background, the 2016 reform has provided an important step toward consolidation through developments in the judiciary. By codifying unforeseeability as one criterion under Article 1218, it supports a case-law approach to force majeure in which reasonableness is assessed more strictly and absolutely on an unpredictable basis. While French law contains a formulation in the legislative reasons based on reasonableness with respect to unforeseeability, Jordanian law addresses this requirement through judicial interpretation rather than explicit legislative formulation.

Under Jordanian jurisprudence, the requirement of unforeseeability implies that the event could not reasonably have been anticipated by the debtor at the time of contract formation, due to its exceptional, rare, or surprising nature.⁶⁵ Neither contracting party must have been in a position to foresee such an occurrence at the time the contract was concluded. Although certain phenomena such as floods, torrential rains, lightning strikes, or wars may be generally foreseeable in abstract or scientific terms, they do not qualify as force majeure unless they manifest in an abnormal, exceptional, or unprecedented manner

⁶² *Madame X v. Insurance Company*, French Court of Cassation, Decision No. 04-20.550, 24 May 2006.

⁶³ *Mr X v. Société Breebos Motors*, French Court of Cassation, Decision No. 00-10.192, 6 November 2002.

⁶⁴ *Elisabeth v. Société Nationale des Chemins de fer Français (SNCF)*, French Court of Cassation, Decision No. 92-11.669, 5 January 1993, Recueil Dalloz [1993], p. 219.

⁶⁵ Muhammad Hussein Qasim, *Al-Qanun al-Madani: Al-Itizamat, Masadir al-Itizam–Al-Aqd* [Civil Law: Obligations, Sources of Obligation–Contract].

(Salim, 2010).⁶⁶ The Jordanian Court of Cassation has consistently ruled that an incident constitutes force majeure if it is unforeseeable and unpreventable when assessed objectively against all the factual circumstances. The standard is not the personal knowledge of the debtor, but whether, at the time of entering into the contract, such an event could have been within the contemplation of even a prudent person.⁶⁷

The Jordanian Court of Cassation has consistently ruled that force majeure can be found only where unforeseeability and impossibility of prevention coexist. In their absence, the event cannot be classified as an irresistible force. The circumstances may also provide a basis for reasonableness in its foreseeability; it need not be wholly unprecedented. The personal knowledge by the debtor about the event is immaterial if circumstances were known or ought to have been known by a prudent person.⁶⁸ Therefore, assessment of the lack of foreseen ability takes place from an objective point of view- events which could have been anticipated do not free the debtor from responsibility when he has played a part in bringing them about.⁶⁹

Judicial precedents, therefore, establish that a force majeure event is something totally extraordinary and beyond common expectation. Seasonal or common events do not qualify as force majeure even if they cause damage. The Cassation Court explicitly held in its judgment that heavy rainfall is an expected phenomenon; hence, it does not satisfy the requirement of unforeseeability.⁷⁰ On the other hand, exceptionally rare events, such as unprecedented flooding of navigable rivers, may fulfil this condition under certain circumstances.⁷¹ Sudden mandatory administrative decision-making that renders the

⁶⁶ Muhammad Muhyi al-Din Ibrahim Salim, *Nazariyyat al-Zuruf al-Tari'ah Bayn al-Qanun al-Madani wa-al-Fiqh al-Islami: Dirasah Muqaranah [The Theory of Unforeseen Circumstances between Civil Law and Islamic Jurisprudence: A Comparative Study]* (Cairo: Dar al-Nahda al-Arabiyya, 2010), <https://www.daralnahda.com>.

⁶⁷ Jordanian Court of Cassation, Decision No. 677/2012, 10 April 2012, Qistas Publication.

⁶⁸ Jordanian Court of Cassation, Decision No. 1755/2008, 25 May 2008, Qistas Publication.

⁶⁹ Alsharqawi et al., "The Role of General Assembly Resolutions to the Development of International Law".

⁷⁰ Jordanian Court of Cassation, Decision No. 5282/2020, 30 December 2020, Qistas Publication.

⁷¹ Jordanian Court of Cassation, Decision No. 4272/2019, 28 November 2019, Qistas Publication.

performance of a contract impossible has also been recognized as a force majeure, fulfilling both the conditions of unforeseeability and impossibility.⁷²

Force majeure is not an automatic classification of an event. For example, war can be classified as force majeure when it is sudden, but not when armed conflict exists or is anticipated.⁷³ Therefore, if the event used to justify non-performance was foreseeable, the force majeure defence fails. In this respect, the Jordanian Court of Cassation ruled that the mere closure of the borders between Jordan and Syria does not constitute force majeure capable of relieving the debtor of contractual obligations.⁷⁴ The court recognised the 1970 civil war in Jordan as a force majeure event because it prevented an employee from performing his contractual duties.⁷⁵

The assessment of unforeseeability under Jordanian law is conducted on an objective basis rather than a subjective one.⁷⁶ Unforeseeability is measured against the standard of a reasonable and prudent person, which also reflects the prevailing approach in Islamic jurisprudence. The determination of whether the elements of force majeure are satisfied constitutes a question of fact within the discretion of the judiciary. As affirmed by the Jordanian Court of Cassation, “the occurrence of force majeure in the conditions of contract execution is a factual matter to be assessed by the court”.⁷⁷

Comparatively, both French and Jordanian law take an objective approach to unforeseeability in force majeure⁷⁸. The test is thus whether a prudent person concluding the contract at that time would have foreseen the event rather than from the actual

⁷² Jordanian Court of Cassation, Decision No. 1473/2016, 23 June 2016, Qistas Publication.

⁷³ Manasra et al., “Tort Liability for Environmental Pollution,” *Journal of Environmental Management and Tourism* 13, no. 5 (2022): 1294–1299, [https://doi.org/10.14505/jemt.v13.5\(61\).07](https://doi.org/10.14505/jemt.v13.5(61).07).

⁷⁴ Jordanian Court of Cassation, Decision No. 369/1972, 23 May 1972, Qistas Publication.

⁷⁵ Jordanian Court of Cassation, Decision No. 78/1963, 20 March 1963, Qistas Publication.

⁷⁶ Anwar Sultan, *Masadir al-Iltizam fi al-Qanun al-Madani al-Urduni: Dirasah Muqaranah bi-al-Fiqh al-Islami [Sources of Obligations in Jordanian Civil Law: A Comparative Study with Islamic Jurisprudence]* (Amman: University of Jordan, 1987)

⁷⁷ Jordanian Court of Cassation, Decision No. 233/1982, 23 May 1982, Qistas Publication.

⁷⁸ Al-Billeh, T. ‘The contractual liability of the air carrier in Jordanian legislation and the international conventions: the modern judicial jurisprudence’, *LUMS Law Journal*, Vol. 10, No. 1, (2024): 84–105.

knowledge of the debtor.⁷⁹ However, this standard is expressly provided for in Article 1218 of the French Civil Code; in Jordanian positive law, there appears to be no express provision laying down this criterion for unforeseeability in force majeure, but it is mainly established through judicial interpretation.

The Concept of Irresistibility and the Impossibility of Performance

Irresistibility is a core element of force majeure, relating to the inability of the debtor to prevent or overcome effects, even with ordinary diligence. This condition draws a jurisprudence distinction between situations of objective impossibility and cases where performance becomes onerous.⁸⁰ Under French law, high-ranking members of the judiciary have repeatedly highlighted irresistibility as the most crucial criterion among those elements which define force majeure. Revised Article 1218 of the French Civil Code further reinforces this position by emphasising the inability to prevent the effects, with the term 'inability' construed as a very strong term parallel to irresistibility itself. In this context, the Cassation Court explained that irresistibility should be understood as an event that makes contractual performance impossible due to its consequences.⁸¹

The irresistibility, which is comprised within the concept of force majeure, means that the debtor is, from an objective point of view, incapable of performing his obligations. Article 1218 provides a very high degree of protection with respect to the gravity of hindrance, where only an event that makes performance impossible qualifies as force majeure, not merely burdensome.⁸² While in most cases impossibility shall be final in its effects, no explicit requirement for absolute impossibility appears in Article 1218, but rather a reference is made to a kind of impossibility taking into account whether reasonably

⁷⁹ Al-Billeh, T. The Correction of the Invalidity of the Civil Trials Procedures in Jordanian and Egyptian Legislation: The Modern Judicial Trends. *Kutafin Law Review*, 9 (3), (2022): 486-510. <https://doi.org/10.17803/2713-0525.2022.3.21.486-510>.

⁸⁰ AL-DLABEEH et al., "The Role of International Criminal Law in Violations of the Environment During Armed Conflict," *Journal of Environmental Management and Tourism* 13, no. 3 (2022): 643-48, [https://doi.org/10.14505/jemt.v13.3\(59\).04](https://doi.org/10.14505/jemt.v13.3(59).04).

⁸¹ Terré, et al., *Droit Civil Les Obligations*. 12e Éd.

⁸² Terré, et al., *Droit Civil Les Obligations*. 12e Éd.

appropriate measures could have overcome the effects of the event. Appropriateness will thus leave room for judicial appreciation when deciding on the dispute.⁸³ In this context, French law requires the debtor to demonstrate that it has taken all reasonable steps that a prudent person, applying an objective standard of diligence, would have undertaken in response to the event.⁸⁴ A contracting party will not be relieved from performance where fault, negligence, or inadequate mitigation efforts can be attributed to their conduct.⁸⁵

The crucial aspect of force majeure under civil law, especially in French jurisprudence, is irresistibility. Therefore, legal doctrine and case law have developed the assessment of unforeseeability in its relation to irresistibility and the effect that can be wrought on contractual performance in its concreteness.⁸⁶ This shall be an approach very much consistent with Article 1218 of the French Civil Code, which itself encapsulates a functional understanding of force majeure as an objective impossibility rather than a strictly abstract, criteria-based possibility.

Under Jordanian law, irresistibility requires that the event could neither be avoided nor overcome by the debtor through reasonable means. Even where an event is unforeseeable, it does not qualify as force majeure if the debtor was in a position to prevent its occurrence or mitigate its effects. Accordingly, the debtor cannot be relieved from liability where the failure to prevent the event is attributable to their conduct.⁸⁷

Jordanian Court of Cassation jurisprudence has affirmed that force majeure may exempt a party from contractual liability and the resulting damages only where the event renders performance objectively impossible. In addition to being unforeseeable at the time

⁸³ François Terré and Philippe Simler, *Droit civil: Les biens*, 10th ed. (Paris: Dalloz, 2018).

⁸⁴ *Madame X v. Insurance Company*, French Court of Cassation, Decision No. 04-20.550, 24 May 2006.

⁸⁵ Paris Court of Appeal, Unreported Case, Decision No. 2000/05210, 21 March 2002, <https://www.legifrance.gouv.fr/juri/id/JURITEXT000006940196>.

⁸⁶ Philippe Le Tourneau et al., *Droit de la responsabilité et des contrats: Régimes d'indemnisation 2026–2027*, 14th ed. (Paris: Dalloz, 2025), https://bcujas-catalogue.univ-paris1.fr/discovery/fulldisplay/alma995178175007621/33CUJAS_INST:33CUJAS_INST.

⁸⁷ Abd al-Razzaq Ahmad al-Sanhuri, *Al-Wasit fi Sharh al-Qanun al-Madani al-Jadid: Masadir al-Iltizam [The Intermediate Treatise on the Explanation of the New Civil Code: Sources of Obligations]*, vol. 1, 3rd new ed. (Cairo: Dar Nahdat Misr, 2011).

of contract conclusion, the event must be such that its effects could not subsequently be prevented or resisted through reasonable efforts.⁸⁸ The concept of force majeure under Jordanian law presupposes that the effects of the event cannot be resisted or overcome. Where the debtor remains capable of performing the contractual obligation despite the occurrence of the event, force majeure cannot be validly invoked as a ground for non-performance. Irresistibility, therefore, requires more than the mere existence of an exceptional event; it necessitates that performance be objectively unattainable.⁸⁹

In this regard, the Jordanian Court of Cassation, applying Article 247 of the Civil Code, has held that an obligation is extinguished only where performance becomes impossible due to an irresistible force arising from an unforeseeable event beyond human control. In a case concerning a guarantee agreement, the appellant argued that the outbreak of war in Iraq rendered performance impossible and extinguished her obligations. The Court rejected this claim, noting that the contract was performed in Jordan and remained unaffected by the hostilities, as the beneficiary continued to demand renewals and payment throughout the war.⁹⁰ This demonstrated that performance was not impossible and, accordingly, the requirements for force majeure were not satisfied.

The objective, factual, external assessment of unforeseeable and irresistible elements gives judges broad latitude in their determinations.⁹¹ Also, differing judicial interpretations of these elements across civil law jurisdictions make their application slightly inconsistent at the national level.⁹² In practice, this uncertainty is minimized by

⁸⁸ Jordanian Court of Cassation, Decision No. 393/1966, 13 December 1966, Qistas Publication.

⁸⁹ Ahmad Mohammad El-Refaie and Ahmad Hussein Alsharqawi, "Legislative Confrontation of the Crime of Environmental Pollution in Jordan," *Pakistan Journal of Criminology* 14, no. 1 (2022): 29-42, <https://www.pjcriminology.com/publications/legislative-confrontation-of-the-crime-of-environmental-pollution-in-jordan>.

⁹⁰ Jordanian Court of Cassation, Decision No. 4272/2019, 28 November 2019, Qistas Publication.

⁹¹ Alsharqawi et al., "International Arbitration: Law and Practice under Dispute Settlement Understanding," *Journal of Legal, Ethical and Regulatory Issues* 23, no. 6 (2020): 1-10, <https://www.abacademies.org/articles/International-arbitration-law-and-practice-under-dispute-settlement-Understanding-1544-0044-23-6-565.pdf>

⁹² Muna Muneer Mohammed Ali Al Shuriedeh and Abdelhamid Akhrif, 'Criminal Liability Following Corporate Mergers: A Comparative Analysis of Arab Legal Systems, French Law, and Common Law', *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1362-1391, <https://doi.org/10.66325/nusantaralaw.v5i2.376>.

contract drafters who define force majeure events through contractual force majeure clauses. Such clauses are contractual in nature and do not necessarily mirror the strict legal requirements of force majeure under civil law. Consequently, force majeure clauses may adopt a broader scope or depart from the traditional legal concept, allowing a debtor to be excused from performance more readily under contractual arrangements than under the civil law doctrine itself.⁹³

Compared with French and Jordanian law, both consider irresistibility a major factor in force majeure. Therefore, the effects could not be prevented or overcome by reasonable efforts. However, this requirement has recently been codified under Article 1218 of the French Civil Code and structured within a legislative framework, whereas, for the most part, it still rests on jurisprudential interpretation and factual determination in Jordanian law. In both legal systems, it ultimately depends on the judge's assessment of whether an objective impossibility of performance has occurred.

The Requirement of the Causal Relationship Between the Act and the Damage

Even where an event satisfies the conditions of force majeure, exemption from liability depends on establishing a direct causal link between the event and the damage suffered. Causality concerns the link between the force majeure event and the damage alleged to result from it. In contractual liability, this situation is described as "impossibility of performance," in which the event renders the debtor objectively unable to fulfill their legal obligations. In such cases, the debtor claims that an external event caused the damage and that he is not responsible. Therefore, force majeure must be the direct and effective cause of the damage so that a clear causal relationship can be established between the damage and the harm.

One of the main effects of force majeure is that it renders it impossible to fulfil contract obligations. Where the event of force majeure is a direct reason for non-

⁹³ El-Refaie and Alsharqawi, "Legislative Confrontation of the Crime of Environmental Pollution in Jordan".

performance, then this aspect severs between debtor conduct and damage consequence by creditor-suffering liability imposed automatically.⁹⁴ In such cases, Article 247 of the Jordanian Civil Code provides that a contract may be rescinded when performance becomes impossible due to an external event. Impossibility may be material, such as the destruction of the subject matter of the obligation, or moral, in a situation where personal conditions make performance objectively unattainable.⁹⁵ The courts have always reiterated that not every hardship or personal difficulty amounts to impossibility. In this respect, the French Court of Cassation found that an insured's sudden illness, which prevented him from paying the premium within the prescribed period, did not constitute an event that made performance impossible. This therefore implies that, for causation, damage must result directly from a specific external event not attributable to the debtor and that made the debtor objectively unable to intervene to prevent the harm.⁹⁶

Recognised impossibility means a condition of objective impossibility that does not take into account subjective resistance or personal difficulty in performing the obligation by the debtor, but only objectively prevents him from performing it. Such recognised impossibility is measured based on a prudent person standard expected from a reasonable person placed in similar circumstances. Therefore, an increase in hardship or in the onerousness of performance does not amount to a recognised impossibility for force majeure to apply.⁹⁷

In this context, causation has a specific legal meaning, determining both the attribution of non-performance and the scope of liability arising from the damage. Where non-performance is directly attributable to force majeure, then in such a case of causal

⁹⁴ Yaser Shehadeh Marzouq Dabbabat, *Athar al-Quwwah al-Qahirah ala al-Rabitah al-Aqdiyyah fi Nitaq al-Mas'uliyah al-Aqdiyyah wa-Mada Imkaniyyat Ta'dil al-Athar al-Mutarattib Alayha: Dirasah Muqaranah [The Impact of Force Majeure on the Contractual Relationship within the Scope of Contractual Liability and the Possibility of Modifying Its Resulting Effects: A Comparative Study]* (PhD dissertation, Ain Shams University, 2018).

⁹⁵ Mohammed Ali Khaled Al-Shurman et al., 'Rethinking the Cyber Regulatory Framework for Data Access Consent: Legal Challenges and Reform in the Hashemite Kingdom of Jordan', *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1180-1201, <https://doi.org/10.66325/nusantaralaw.v5i2.367>.

⁹⁶ Alsharqawi et al., "The Role of General Assembly Resolutions to the Development of International Law".

⁹⁷ Manasra et al., "Tort Liability for Environmental Pollution."

relationship, responsibility is removed from the debtor and placed on an external event.⁹⁸ Should attribution be checked only through material (objective) criteria, or should subjective or psychological considerations be required for liability?⁹⁹ On this aspect, Dr Al-Sanhuri holds that "The causal link in force majeure cases is purely material. It requires only objective attribution of non-performance to the overwhelming external event." Force majeure thus excludes culpability by transferring the cause of non-performance from the debtor to an external source, such as earthquakes or volcanic eruptions, thereby excluding any need for psychological or personal assessment of fault.¹⁰⁰

Jordanian and French judicial practice, as reflected in delivered rulings and judgments,¹⁰¹ provides that causality is a major requirement for the application of force majeure. In this context, the Jordanian Court of Cassation ruled that theft is not an event of force majeure because it is generally foreseeable and can be prevented by taking precautionary and protective measures. Therefore, under this approach to causality in liability's exemption due to an act of theft, the foreseeability prevents establishing a causal link sufficient to exempt the debtor from liability.

However, some judges in dissenting opinions found that theft could sometimes be considered an act by a third party, thereby breaking the causal link between a debtor's conduct and the resulting damage.¹⁰² They further ruled that there should be no active or passive behaviour on the part of a debtor to have facilitated the commission of such an

⁹⁸ Anan Shawqi Younes and Ahmad Hussein Alsharqawi, "Regulating the UK Financial System Post-Crisis under the Financial Services and Markets Act 2000 as Amended," *Journal of Legal, Ethical and Regulatory Issues* 23, no. 5 (2020): 1-9, <https://www.abacademies.org/articles/regulating-the-uk-financial-system-post-crisis-under-the-financial-services-and-markets-act-2000-as-amended-9669.html>.

⁹⁹ Yaser Shehadeh Marzouq Dabbabat, *Athar al-Quwwah al-Qahirah ala al-Rabitah al-Aqdiyyah fi Nitaq al-Mas'uliyah al-Aqdiyyah wa-Mada Imkaniyyat Ta'dil al-Athar al-Mutarattib Alayha: Dirasah Muqaranah [The Impact of Force Majeure on the Contractual Relationship within the Scope of Contractual Liability and the Possibility of Modifying Its Resulting Effects: A Comparative Study]*.

¹⁰⁰ Abd al-Razzaq Ahmad al-Sanhuri, *Al-Wasit fi Sharh al-Qanun al-Madani al-Jadid: Masadir al-Iltizam [The Intermediate Treatise on the Explanation of the New Civil Code: Sources of Obligations]*.

¹⁰¹ ALSHARQAWI, Ahmad. "The Role of Forensic Medicine in the Criminal Justice Process in Jordan (Sexual Crimes)." *Indian Journal of Forensic Medicine & Toxicology* 15, no. 4 (2021): 250-253.

¹⁰² Abedalrzag Aldalbeeh and Ahmad Alsharqawi, "Cyber Terrorism and Its Role in the Outbreak of International Crisis," *International Journal of Electronic Security and Digital Forensics* 15, no. 1 (2023): 24-32, <https://doi.org/10.1504/IJESDF.2023.127744>.

offence to result in his exemption from civil liability.¹⁰³ Where the debtor neither participated in nor facilitated the wrongful act, and where the perpetrators were subsequently apprehended and prosecuted, the causal link may be deemed interrupted. The determination of whether such conditions are satisfied remains a matter of fact within the discretionary authority of the appellate court.¹⁰⁴

In *Mazen Al-Qawasmi Company v Arab-German Insurance Company*, the Jordanian Court of Cassation addressed the limits of force majeure in relation to causation and carrier liability. The dispute relates to the death of a shipment of poultry while being carried alive by land from Jordan to Saudi Arabia, as a result of a failure in the refrigeration system of the carrier's trucks. The carrier has alleged that an overwhelming force caused the damage.¹⁰⁵ The Court rejected this defence and held that an invocation of force majeure, in the absence of any supporting evidence, would not suffice to exempt the carrier from liability. The carrier was thus under a duty to keep the goods safe during transit by ensuring proper maintenance and checking vehicles and refrigeration equipment before using them to transport perishable commodities. The refrigeration breakdown was attributed more to the carrier's negligence than to any external, irresistible event.¹⁰⁶

Relying on Articles 10 and 22(a) of the Goods Transport Law, the Court affirmed that the carrier's responsibility commences upon receipt of the goods and continues until delivery to the consignee, and that any contractual clause excluding or limiting liability is void. The judgment further clarified that force majeure requires an objective impossibility that cannot be prevented or overcome by reasonable means. Where damage results from inadequate care or maintenance, the causal link remains intact, and liability is not

¹⁰³ Abedalrzag Aldalbeeh and Ahmad Alsharqawi, "Cyber Terrorism and Its Role in the Outbreak of International Crisis".

¹⁰⁴ Jordanian Court of Cassation, Decision No. 2094/2022, 25 July 2022, Qistas Publication.

¹⁰⁵ *Mazen Al-Qawasmi Company v. Arab-German Insurance Company*, Jordanian Court of Cassation, 31 January 2021.

¹⁰⁶ Alsharqawi, Ahmad Hussein, Abd Alhade Mossa Hasan Rshdan, Lobna Abdalhusen Easa AL-Seedi, and Nabeel Mahdi Althabhwawi. "Hybrid Environmental Liability in Jordan: Reforming Fault-Based Civil Liability through Risk-Based Approaches." *Environment and Water Engineering* 12, no. 1 (2026): 119-130. <https://doi.org/10.22034/ewe.2026.244338>.

displaced. This case illustrates that force majeure does not operate where the damage is directly attributable to the debtor's conduct or operational failure.¹⁰⁷

Causality constitutes a decisive link in the chain of contractual liability, particularly in contracts affected by force majeure, as it determines whether the external event genuinely prevented the fulfilment of the debtor's obligation. Where force majeure results in an objective impossibility of performance, the debtor may be exempted from liability only if a clear and direct causal link is established between the external event and the damage suffered. Both Jordanian and French courts have consistently emphasized the need to prove this causal relationship, especially in cases involving negligence or foreseeable events such as theft, which do not qualify as force majeure. In the absence of such a causal link, contractual liability remains with the debtor.¹⁰⁸

CONCLUSION

Structurally, force majeure is treated very differently in the contract law systems of Jordan and France. In the French system, it is defined quite neatly – in a structured manner under Article 1218 of the French Civil Code – based upon three criteria that must cumulate: externality, unforeseeability, and irresistibility. In the Jordanian system, however, it remains an open foreign cause – the content of which is constructed mainly by judicial interpretation. This difference has important implications for legal certainty and coherence in the development of applications that result in enforceable contractual rights. The French model shows how legislative codification can lay down clear doctrinal rules while still leaving the courts with some interpretative flexibility. This is because there is no codified definition in Jordanian law, leading the courts to oscillate in distinguishing force majeure from other doctrines of changed circumstances, particularly hardship. This inconsistency becomes most apparent when an exceptional event such as that considered occurs. The

¹⁰⁷ El-Refaie, Ahmad Mohammad, and Ahmad Hussein Alsharqawi. "The Criminal Liability of the Forensic Doctor as a Judicial Expert According to Jordanian Law." *Indian Journal of Forensic Medicine & Toxicology* 15, no. 4 (2021): 4966–4971.

¹⁰⁸ Gharibeh, Ashraf Mohamad, Mohammed Rashid Ahmed Al Makhmari, Radwan Ahmad Al Haf, Mohammad Njim Ibrahim Elayat, and Ahmad Hussein Alsharqawi. "The Legal Framework Governing the Offence of Environmental Pollution in Jordan and the Sultanate of Oman." *Journal of Environmental Management & Tourism* 14, no. 7 (2023): 2935–2943. [https://doi.org/10.14505/jemt.v14.7\(71\).10](https://doi.org/10.14505/jemt.v14.7(71).10).

courts swing between a stance of absolute impossibility of performance and a contractual adjustment based on excessive onerousness.

The results of the present study demonstrate that the actual problem in Jordanian contract law is, therefore, not the recognition of force majeure per se but the absence of a clear standard, unified rule for its application. In this regard, a lesson in comparison can be drawn from the French experience, where codification proved to have certain merits in providing legal certainty without, however, depriving the courts of their exceptional circumstances responsiveness. In other words, the problem is not with the concept of force majeure itself but with the lack of a single, clear rule for applying it. The article, therefore, concludes that legislative intervention in Jordan either explicitly codifies criteria for force majeure or issues judicial guidelines to ensure coherence in judicial practice and stability in contracts. Developments in comparative civil law relevant to Jordan are analyzed, with an emphasis on balancing fairness with contractual obligations in the event of unforeseen disruptions.

This paper scientifically contributes by clarifying the relationship between codification, judicial discretion, and legal certainty in the doctrine of force majeure. The practical implication is that Jordanian contract law would better serve as legislative guidance or authoritative judicial criteria by more explicitly defining the conditions and effects of force majeure, leaving the courts the necessary room for exceptional cases. On the other hand, the study can only provide a doctrinal and comparative analysis of Jordanian and French law; it does not delve into empirical judicial practice or contractual drafting in various commercial sectors. Future studies should examine how Jordanian courts apply force majeure provisions in construction contracts, supply agreements, and international commercial transactions, and whether the proposed legislative changes would make a practical difference.

ACKNOWLEDGEMENTS

The authors would like to express their sincere appreciation to the Faculty of Law, Universiti Kebangsaan Malaysia (UKM), Malaysia; the Faculty of Law, Amman Arab

University, Jordan; the College of Law, Imam Jaafar Al-Sadiq University (IJSU), Baghdad, Iraq; and the College of Law, University of Baghdad, Iraq, for their academic and institutional support in relation to this research..

AUTHOR CONTRIBUTIONS STATEMENT

Ahmad Hussein Alsharqawi developed the research idea, structured the study, developed the comparative legal framework, and drafted the main sections of the manuscript. Abd Alhade Mossa Hasan Rshdan helped conceptualize the research problem and the methodology, and analyzed the Jordanian legal framework regarding force majeure and foreign causes. Nabeel Mahdi Althabhwawi helped collect and analyse materials on comparative law, particularly French law, judicial interpretation, and codification. Lobna Abdalhusen Easa Al-Seedi helped review the literature, support the doctrinal analysis, and revise the manuscript for academic coherence and clarity. All authors contributed to the research, reviewed the final manuscript, and approved it for publication.

CONFLICT OF INTEREST

The authors declare no conflict of interest regarding the research, authorship, or publication of this article.

AI USAGE STATEMENT

The authors used artificial intelligence (AI)-based tools solely as auxiliary tools during the preparation of this manuscript, particularly for language editing, grammar checking, and improving the clarity and readability of the English language. AI tools were not used to generate the research findings, analysis, arguments, or conclusions. The authors retain full responsibility for the originality, accuracy, integrity, and scholarly content of the manuscript and have carefully reviewed and verified all AI-assisted text before submission.

BIBLIOGRAPHY

Al-Billeh, T. The Correction of the Invalidity of the Civil Trials Procedures in Jordanian and Egyptian Legislation: The Modern Judicial Trends. *Kutafin Law Review*, 9 (3), (2022): 486-510. <https://doi.org/10.17803/2713-0525.2022.3.21.486-510>.

Al-Billeh, T. 'The contractual liability of the air carrier in Jordanian legislation and the international conventions: the modern judicial jurisprudence', *LUMS Law Journal*, Vol. 10, No. 1, (2024): 84-105.

Aldalbeeh, Abedalrzag, and Ahmad Alsharqawi. "Cyber Terrorism and Its Role in the Outbreak of International Crisis." *International Journal of Electronic Security and Digital Forensics* 15, no. 1 (2023): 24-32.
<https://doi.org/10.1504/IJESDF.2023.127744>.

Alsharqawi, Ahmad Hussein, Abd Alhade Mossa Hasan Rshdan, Lobna Abdalhusen Easa AL-Seedi, and Nabeel Mahdi Althabhwai. "Hybrid Environmental Liability in Jordan: Reforming Fault-Based Civil Liability through Risk-Based Approaches." *Environment and Water Engineering* 12, no. 1 (2026): 119-130.
<https://doi.org/10.22034/ewe.2026.244338>.

Al-Dlabeeh, Abedalrzag, Ahmad Hussein Alsharqawi, Rami Al Kloub, and Abdel-Kareem Ottallah Karabsheh. "The Role of International Criminal Law in Violations of the Environment During Armed Conflict." *Journal of Environmental Management and Tourism* 13, no. 3 (2022): 643-648. [https://doi.org/10.14505/jemt.v13.3\(59\).04](https://doi.org/10.14505/jemt.v13.3(59).04).

Alsharqawi, Ahmad. "The Role of Forensic Medicine in the Criminal Justice Process in Jordan (Sexual Crimes)." *Indian Journal of Forensic Medicine & Toxicology* 15, no. 4 (2021): 250-253.

Al-Hakim, Abd al-Majid Abd al-Hamid. *Al-Wajiz fi Sharh al-Qanun al-Madani: Masadir al-Iltizam* [A Concise Explanation of Civil Law: Sources of Obligations]. Vol. 1. Amman: National Library, 2007.

Al-Khawaldah, Moayd Husni Ahmad, Abd Alhade Mossa Hasan Rshdan, Mohammed Rashid Ahmed Al Makhmari, Said Ali Hassan Al Mamari, Radwan Ahmad Al Haf, and Ahmad Hussein Alsharqawi. "Penal Liability for the Oil Leak Incident 'Heavy Fuel' in the Jordanian Port of Aqaba and Its Impact on the Environment." *Journal*

al-Sanhuri, Abd al-Razzaq Ahmad. *Al-Wasit fi Sharh al-Qanun al-Madani al-Jadid: Masadir al-Iltizam* [The Intermediate Treatise on the Explanation of the New Civil Code: Sources of Obligations]. Vol. 1. 3rd new ed. Cairo: Dar Nahdat Misr, 2011.

Al-Sharqawi, Ahmad Hussein Hassan. *Between Onerousness and Impossibility: A Comparative Study of the Doctrine of Changed Circumstances under the Jordanian Civil Law, with Reference to French Law and the CISG Framework*. PhD thesis, Universiti Kebangsaan Malaysia, 2025.

Alsharqawi, Ahmad Hussein, Nabeel Mahdi Althabhwawi, and Haniff Ahamat. "Hardship in International Commercial Contracts: A Comparative Analysis of the Rules of Non-Legislative Codification." *Journal of Lifestyle and SDGs Review* 5, no. 3 (2025): e04125. <https://doi.org/10.47172/2965-730X.SDGsReview.v5.n03.pe04125>.

El-Refaie, Ahmad Mohammad, and Ahmad Hussein ALSHARQAWI. "The Criminal Liability of the Forensic Doctor as a Judicial Expert According to Jordanian Law." *Indian Journal of Forensic Medicine & Toxicology* 15, no. 4 (2021): 4966-4971.

Alsharqawi, Ahmad Hussein, Nabeel Mahdi Althabhwawi, Haniff Ahamat, and Abd Alhade Mossa Hasan Rshdan. "Red Sea Crisis and the Problem of Frustrated Contracts." *Malaysian Journal of Syariah and Law* 14, no. 1 (2026): 126-141. <https://doi.org/10.33102/mjssl.vol14no1.1008>.

Alsharqawi, Ahmad, Ahmad Bani Hamdan, and Moh'd Abu Anzeh. "The Role of General Assembly Resolutions to the Development of International Law." *Journal of Legal, Ethical and Regulatory Issues* 24, no. 2 (2021): 1-6. <https://www.abacademies.org/articles/the-role-of-general-assembly-resolutions-to-the-development-of-international-law-10426.html>.

Alsharqawi, Ahmad, Ghazi Ayed Alghathian, and Anan Shawqi Younes. "International Arbitration: Law and Practice under Dispute Settlement Understanding." *Journal of Legal, Ethical and Regulatory Issues* 23, no. 6 (2020): 1-10.
<https://www.abacademies.org/articles/International-arbitration-law-and-practice-under-dispute-settlement-Understanding-1544-0044-23-6-565.pdf>.

Al-Shurman, Mohammed Ali Khaled, Wail Abouabaid, Hasan Jassam Ahmed, Maher Ali Ahmad Al-Khaldi, Jamal Awwad Alkharman, and Hamdan Ghunemat. 'Rethinking the Cyber Regulatory Framework for Data Access Consent: Legal Challenges and Reform in the Hashemite Kingdom of Jordan'. *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1180-1201.
<https://doi.org/10.66325/nusantaralaw.v5i2.367>.

Althabhwawi, Nabeel Mahdi, Ra'Ed Fawzi Aburoub, Mohamad Rizal Abd Rahman, Faris Kamil Hasan Mihna, and Hazim Akram Sallal. "Force Majeure in Smart Contracts: A Mixed-Methods Analysis of Legal Challenges." *IEEE Access* 14 (2026): 36975-3692. <https://doi.org/10.1109/ACCESS.2026.3669546>.

Amer, Hussein. *Al-Mas'uliyah al-Madaniyyah: Al-Mas'uliyah al-Taqsiriyyah wa-al-'Aqdiyyah* [Civil Liability: Tortious and Contractual Liability]. Mu'assasat Al-Ma'arif for Printing and Publishing, 1979.
<https://books.google.com/books/about/%D8%A7%D9%84%D9%85%D8%B3%D8%A6%D9%88%D9%84%D9%8A%D8%A9%D8%A7%D9%84%D9%85%D8%AF%D9%86%D9%8A%D8%A9%D8%A7%D9%84%D8%AA.html?hl=ar&id=CPwMogEACAAJ>.

Bank Sepah v. Overseas Financial Ltd and Oaktree Finance Ltd. French Court of Cassation, Plenary Assembly. Decision No. 18-18.542. 10 July 2020.
<https://www.legifrance.gouv.fr/juri/id/JURITEXT000042128145>.

Bridge, Michael G. *The International Sale of Goods*. 4th ed. Oxford: Oxford University Press, 2017. <https://doi.org/10.1093/law/9780198792703.001.0001>.

Chénéde, François. *Le Nouveau Droit des Obligations et des Contrats: Consolidations, Innovations, Perspectives*. 2nd ed. Paris: Dalloz, 2018. <https://univ-lyon3.hal.science/hal-02087164>.

City of Lyon v. Michalon and Vidal and Their Insurer, Le Continent. French Court of Cassation. Decision of 6 July 1960. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000006953746/>.

Colmar Court of Appeal. Decision No. 20/01098. 12 March 2020. <https://www.doctrine.fr/d/CA/Colmar/2020/C8A8F3A305EEEEBB31F24>.

Colmar Court of Appeal. Decision No. 20/01098. 12 March 2020. <https://www.doctrine.fr/d/CA/Colmar/2020/C8A8F3A305EEEEBB31F24>.

Dabbabat, Yaser Shehadeh Marzouq. *Athar al-Quwwah al-Qahirah ala al-Rabitah al-Aqdiyyah fi Nitaq al-Mas'uliyah al-Aqdiyyah wa-Mada Imkaniyyat Ta'dil al-Athar al-Mutarattib Alayha: Dirasah Muqaranah* [The Impact of Force Majeure on the Contractual Relationship within the Scope of Contractual Liability and the Possibility of Modifying Its Resulting Effects: A Comparative Study]. PhD dissertation, Ain Shams University, 2018.

Douai Court of Appeal. Decision No. 20/00395. 4 March 2020. [https://www.dalloz.fr/documentation/Document?id=CA DOUAI 2020-0304 2000395&FromId=AJDI CHRON 2020 0611#](https://www.dalloz.fr/documentation/Document?id=CA_DOUAI_2020-0304_2000395&FromId=AJDI_CHRON_2020_0611#).

Elisabeth v. Société Nationale des Chemins de fer Français (SNCF). French Court of Cassation. Decision No. 92-11.669. 5 January 1993. *Recueil Dalloz* [1993], p. 219.

El-Refaie, Ahmad Mohammad, Abedalrzag Aldalbeeh, and Ahmad Alsharqawi. "The Extent of Bound or Unbound United Nations Security Council by Law." *Journal of Legal, Ethical and Regulatory Issues* 24, no. S4 (2021): 1-7. <https://www.abacademies.org/articles/the-extent-of-bound-or-unbound-united-nations-security-council-by-law-12251.html>.

El-Refaie, Ahmad Mohammad, and Ahmad Hussein Alsharqawi. "Legislative Confrontation of the Crime of Environmental Pollution in Jordan." *Pakistan Journal of Criminology* 14, no. 1 (2022): 29-42. <https://www.pjcriminology.com/publications/legislative-confrontation-of-the-crime-of-environmental-pollution-in-jordan>.

Gharibeh, Ashraf Mohamad, Mohammed Rashid Ahmed Al Makhmari, Radwan Ahmad AL Haf, Mohammad Njim Ibrahim Elayat, and Ahmad Hussein Alsharqawi. "The Legal Framework Governing the Offence of Environmental Pollution in Jordan and the Sultanate of Oman." *Journal of Environmental Management & Tourism* 14, no. 7 (2023): 2935-2943. [https://doi.org/10.14505/jemt.v14.7\(71\).10](https://doi.org/10.14505/jemt.v14.7(71).10).

Fontaine, Marcel, and Filip De Ly. *Drafting International Contracts: An Analysis of Contract Clauses*. 2nd ed. Leiden: Brill Nijhoff, 2010. https://brill.com/display/book/9789047430230/Bej.9789004176799.i-654_001.xml.

French Civil Code. As amended by Ordinance No. 2016-131 of 10 February 2016. https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070721/.

French Court of Cassation, Criminal Chamber. Unreported Case. Decision No. 04-87.813. 15 November 2005. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007071078>.

French Court of Cassation. Unreported Case. Decision No. 12-23.126. 15 October 2013. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000028098046>.

French Court of Cassation. Unreported Case. Decision of 12 November 1969. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000006981670>.

Heinich, Julia. "L'incidence de l'épidémie de coronavirus sur les contrats d'affaires: de la force majeure à l'imprévision." *Recueil Dalloz*, no. 11 (2020): 611-17.

Jordanian Civil Code. Law No. 43 of 1976. *Official Gazette of the Hashemite Kingdom of Jordan*.

Jordanian Court of Cassation. Decision No. 1473/2016. 23 June 2016. Qistas Publication.

Jordanian Court of Cassation. Decision No. 1755/2008. 25 May 2008. Qistas Publication.

Jordanian Court of Cassation. Decision No. 1998/2025. 30 June 2025. Qistas Publication.

Jordanian Court of Cassation. Decision No. 2094/2022. 25 July 2022. Qistas Publication.

Jordanian Court of Cassation. Decision No. 233/1982. 23 May 1982. Qistas Publication.

Jordanian Court of Cassation. Decision No. 369/1972. 23 May 1972. Qistas Publication.

Jordanian Court of Cassation. Decision No. 393/1966. 13 December 1966. Qistas Publication.

Jordanian Court of Cassation. Decision No. 4272/2019. 28 November 2019. Qistas Publication.

Jordanian Court of Cassation. Decision No. 5282/2020. 30 December 2020. Qistas Publication.

Jordanian Court of Cassation. Decision No. 6143/2018. 31 October 2018. Qistas Publication.

Jordanian Court of Cassation. Decision No. 677/2012. 10 April 2012. Qistas Publication.

Jordanian Court of Cassation. Decision No. 78/1963. 20 March 1963. Qistas Publication.

Jordanian Court of Cassation. Decision No. 964/2019. 15 March 2019. Qistas Publication.

Le Tourneau, Philippe, Cyril Bloch, André Giudicelli, Christophe Guettier, Jérôme Julien, Didier Krajieski, and Matthieu Poumarède. *Droit de la responsabilité et des contrats*:

Régimes d'indemnisation 2026–2027. 14th ed. Paris: Dalloz, 2025. https://bcujas-catalogue.univ-paris1.fr/discovery/fulldisplay/alma995178175007621/33CUJAS_INST:33CUJAS_INST.

M. X v. Fonds de développement des archipels. French Court of Cassation. Decision No. 10-17.726. 16 May 2012. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000025897101>.

M. X v. Société Breebos Motors. French Court of Cassation. Decision No. 00-10.192. 6 November 2002. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007044296>.

Madame X v. École Saint-Louis. French Court of Cassation. Decision No. 96-13.316. 10 February 1998. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007039517>.

Madame X v. Insurance Company. French Court of Cassation. Decision No. 04-20.550. 24 May 2006. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007504738>.

Malaurie, Philippe, Laurent Aynès, and Philippe Stoffel-Munck. *Droit des obligations*. 11th ed. Paris: LGDJ/Lextenso, 2020. https://openlibrary.org/works/OL43839379W/Droit_des_obligations.

Manasra, Majd Waleed, Said Al Mamari, Ashraf Gharibeh, Muhammad Najm, Anan Shawqi Younes, and Ahmad Hussein Alsharqawi. "Tort Liability for Environmental Pollution." *Journal of Environmental Management and Tourism* 13, no. 5 (2022): 1294–99. [https://doi.org/10.14505/jemt.v13.5\(61\).07](https://doi.org/10.14505/jemt.v13.5(61).07).

Mazen Al-Qawasmi Company v. Arab-German Insurance Company. Jordanian Court of Cassation. 31 January 2021.

Mazzacano, Peter J. "Force Majeure, Impossibility, Frustration & the Like: Excuses for Non-Performance; the Historical Origins and Development of an Autonomous

Commercial Norm in the CISG.” *Nordic Journal of Commercial Law*, no. 2 (2011): 1-54. <https://doi.org/10.5278/ojs.njcl.v0i2.3001>.

Mr Mittenaere v. Mrs Lucas and Pacholczyk. French Court of Cassation, General Assembly.
Decision No. 02-11.168. 14 April 2006.
<https://www.legifrance.gouv.fr/juri/id/JURITEXT000007051847>.

Paddeu, Federica I. “A Genealogy of Force Majeure in International Law.” *British Yearbook of International Law* 82, no. 1 (2011): 381-494.
<https://doi.org/10.1093/bybil/brs005>.

Paris Court of Appeal. Unreported Case. Decision No. 2000/05210. 21 March 2002.
<https://www.legifrance.gouv.fr/juri/id/JURITEXT000006940196>.

Pejovic, Caslav. “Civil Law and Common Law: Two Different Paths Leading to the Same Goal.” *Victoria University of Wellington Law Review* 32, no. 3 (2001): 817-42.
<https://doi.org/10.26686/vuwlr.v32i3.5873>.

Porchy-Simon, Stéphanie. *Droit civil: Les obligations*. Paris: Dalloz, 2018. https://catalogue-bibliotheque.sciencespo.fr/discovery/fulldisplay/alma991002053909705808/33USPC_SPO:SPO.

Qasim, Muhammad Hussein. *Al-Qanun al-Madani: Al-Iltizamat, Masadir al-Iltizam–Al-Aqd* [Civil Law: Obligations, Sources of Obligation–Contract]. 1st ed. Beirut: Al-Halabi Legal Publications, 2018.

Qutieshat, Enas. “The Impact of the Corona Pandemic on the Performance of Contractual Obligations under the Provisions of Jordanian Defence and Civil Laws.” *Journal of Legal, Ethical and Regulatory Issues* 24, no. 3 (2021): 1-13.
<https://www.abacademies.org/articles/The-impact-of-the-corona-pandemic-1544-0044-24-3-660.pdf>.

Report to the President of the Republic Relating to Ordinance No. 2016-131 of 10 February 2016 on the Reform of Contract Law, the General Regime and Proof of Obligations. *JORF* No. 0035, 11 February 2016.

Rohid, Nibrosu, Rahma Sugihartati, Bagong Suyanto, Oleksandr Gotin, Nabrisi Rohid, and Sukisno. 'Reconstructing the Legal Enforcement Framework for Digital Activism in an Era of Technological Disruption'. *Nusantara: Journal of Law Studies* 5, no. 2 (July 2026): 881-901. <https://doi.org/10.66325/nusantaralaw.v5i2.236>.

Salim, Muhammad Muhyi al-Din Ibrahim. *Nazariyyat al-Zuruf al-Tari'ah Bayn al-Qanun al-Madani wa-al-Fiqh al-Islami: Dirasah Muqaranah* [The Theory of Unforeseen Circumstances between Civil Law and Islamic Jurisprudence: A Comparative Study]. Cairo: Dar al-Nahda al-Arabiyya, 2010. <https://www.daralnahda.com>.

Shuriedeh, Muna Muneer Mohammed Ali Al, and Abdelhamid Akhrif. 'Criminal Liability Following Corporate Mergers: A Comparative Analysis of Arab Legal Systems, French Law, and Common Law'. *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1362-1391. <https://doi.org/10.66325/nusantaralaw.v5i2.376>.

Siems, Mathias. *Comparative Law*. 3rd ed. Cambridge: Cambridge University Press, 2022. <https://doi.org/10.1017/9781108892766>.

Simone S. v. M. Etienne and Mme Madeleine. French Court of Cassation. Decision No. 79-12.710. 24 February 1981. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007007126/>.

Société Automobiles Peugeot et Société Automobiles Citroën v. Société Nationale des Chemins de fer Français (SNCF). French Court of Cassation, Social Chamber. Decision No. 97-18.215. 11 January 2000. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007042018/>.

Société Coris v. Société Alcatel Câble France. French Court of Cassation. Decision No. 98-17.015.

6 March 2001. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007420096>.

Société Figeac Aéro v. Électricité de France (EDF). French Court of Cassation, First Civil Chamber.

Decision No. 07-17.134. 30 October 2008.

<https://www.legifrance.gouv.fr/juri/id/JURITEXT000019715062>.

Société La Briocherie v. Mme Henriette Mestre, veuve Frey. French Court of Cassation, Plenary

Assembly. Decision No. 05-17.690. 21 December 2006.

<https://www.legifrance.gouv.fr/juri/id/JURITEXT000007055080>.

Sultan, Anwar. *Masadir al-Iltizam fi al-Qanun al-Madani al-Urduni: Dirasah Muqaranah bi-al-*

Fiqh al-Islami [Sources of Obligations in Jordanian Civil Law: A Comparative Study with Islamic Jurisprudence]. Amman: University of Jordan, 1987.

<https://books.google.com/books/about/%D9%85%D8%B5%D8%A7%D8%AF%D8%B1%D8%A7%D9%84%D8%A7%D9%84%D8%AA%D8%B2%D8%A7%D9%85%D9%81%D9%8A%D8%A7%D9%84%D9%82.html?hl=ar&id=Ey5MCTxeR9kC>.

Taschereau, R. "Theory of Fortuitous Events and Force Majeure in Obligations." PhD thesis, Université Laval, 1901.

Terré, François, and Philippe Simler. *Droit civil: Les biens*. 10th ed. Paris: Dalloz, 2018.

Terré, François, Philippe Simler, Yves Lequette, and François Chénéde. *Droit civil: Les obligations*. 12th ed. Paris: Dalloz, 2018.

https://books.google.com/books/about/Droit_civil_Les_obligations_12e_%C3%A9d.html?id=ufp0DwAAQBAJ.

Van Hoecke, Mark, ed. *Methodologies of Legal Research: Which Kind of Method for What Kind of Discipline?* Oxford: Hart Publishing, 2017.

Younes, Anan Shawqi, and Ahmad Hussein Alsharqawi. "Regulating the UK Financial System Post-Crisis under the Financial Services and Markets Act 2000 as Amended." *Journal of Legal, Ethical and Regulatory Issues* 23, no. 5 (2020): 1-9. <https://www.abacademies.org/articles/regulating-the-uk-financial-system-post-crisis-under-the-financial-services-and-markets-act-2000-as-amended-9669.html>.

Younes, Anan Shawqi, and Ahmad Hussein Alsharqawi. "The Legal Education Experience during the COVID-19 Pandemic." *Review of International Geographical Education Online* 11, no. 6 (2021): 1029-36. <https://researcher.life/journal/review-of-international-geographical-education-online/29494>.