Force Majeure: What Happens When Your Contract Is Silent

Article 247 of the Jordanian Civil Code, the Courts, and the Limits of Statutory Protection

I. Introduction

In international commercial contracting, a force majeure clause serves as a critical risk-allocation mechanisms available to the parties. Derived from the French term meaning "superior force," and referred to initially in the French Civil Code of 1804 and then codified in Article 1218 of the French Civil Code in 2016 ,[1] as an event beyond the control of the affected party that could not reasonably have been foreseen at the time of the conclusion of the contract and whose effects could not be avoided by appropriate measures.

The US-Israel war on Iran, which began on the 28th of February 2026, has triggered shockwaves in the global market as the escalating war is disrupting shipping routes, energy markets, and businesses. The outbreak of hostilities has produced one of the most significant disruptions to global commerce in decades.[2] The closure of the Strait of Hormuz (roughly 20% of the world's daily oil supply) has renewed practitioner attention to the force majeure provision, and more critically, to the legal vacuum that arises when it is absent.[3] QatarEnergy, Kuwait Petroleum Corporation and Bahrain's Bapco Energies declared force majeure in early March, and the cascade has since spread far beyond the Arab World's national oil companies.[4]

This article examines what happens when a force majeure clause is absent and an unforeseeable event disrupts performance, focusing on the position under Jordanian law. It looks

[1] Peter 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, 2011, 2: 1-54, at 12

[2] Hornyold-Strickland, Francis, et al. *The Iran War and English Law: Force Majeure, Sanctions, Frustration and Residual Considerations*. Monckton Chambers, Apr. 2026, https://www.monckton.com/wp-content/uploads/2026/04/Iran-War-Combined-Articles15.pdf. Accessed 11 June 2026.

[3] Miguel Hadchity, "Force majeure: Why companies are triggering a legal safety net as Iran war rages on," *Arab News*, 13 Mar. 2026, https://www.arabnews.com/node/2636263/business-economy

[4] Bahrain, Kuwait and Qatar, Singapore Companies Announces Force Majeure on Operations." *Gulf International Forum*, 9 Mar. 2026, https://gulfif.org/timeline/bahrain-kuwait-and-qatar-singapore-companies-announces-force-majeure-on-operations/. Accessed 11 June 2026.

closely at Article 247 of the Jordanian Civil Code, how Jordanian courts have applied it, and what role domestic legislation plays in commercial contracts more broadly, before concluding with practical guidance for businesses managing this exposure.

II. The Importance of Force Majeure

A well-drafted Force Majeure clause typically identifies: (i) the categories of triggering events; (ii) the causal link required between the event and non-performance; (iii) the standard of foreseeability and preventability; (iv) notice obligations; and (v) the consequences, which may include suspension of obligations, extension of time, or termination rights[5]. These parameters provide certainty and reduce litigation risk.

Practitioners have noted that a party invoking an English-law force majeure clause must show the event falls within the clause's definition, that it actually caused the non-performance, that the non-performance was beyond the party's control, and that no reasonable mitigating steps were available.[6]

When such a clause is absent, the default legal framework of the country steps in to fill the void. Unfortunately, that framework is neither uniform nor predictable across legal systems, creating fertile ground for disputes in cross-border transactions involving parties from common law and civil law traditions alike. For instance, English law has no general doctrine of force majeure and instead applies the narrower doctrine of frustration, under which a supervening event must take performance impossible, illegal, or radically different from what the parties agreed.[7] Whilst US law recognizes the comparatively broader doctrine of impracticability, which does not always require literal impossibility. [8]A declaration that is valid under one governing law may constitute a repudiatory breach under another.[9] Between these approaches, Article 79 of the United Nations Convention on Contracts for the International Sale of Goods (CISG)[10] adopts a neutral standard, excusing a party from liability

[5] International Chamber of Commerce. *ICC Force Majeure and Hardship Clauses 2020*, ICC Publication No. 724E, 2020.
[6] "Middle East Conflict: Force Majeure and Commercial Implications in English Law," *Pinsent Masons (Out-Law)*, 27 Mar. 2026, https://www.pinsentmasons.com/out-law/guides/middle-east-force-majeure-commercial-implications-english-law. Accessed 11 June 2026.
[7] *Davis Contractors Ltd. v. Fareham Urban District Council*, [1956] A.C. 696 (H.L.).
[8] American Law Institute, *Restatement (Second) of Contracts*, § 261 (1981); Uniform Law Commission and American Law Institute, *Uniform Commercial Code*, § 2-615.
[9] Martin Skehill, "Force Majeure and Business Continuity in the Middle East," *Hunton Andrews Kurth* (8 June 2026), https://www.hunton.com/insights/legal/force-majeure-and-business-continuity-in-the-middle-east. Accessed 11 June 2026.
[10] United Nations Convention on Contracts for the International Sale of Goods (1980), Article 79.

where its failure to perform is due to an "impediment" beyond its control that could not reasonably have been foreseen or avoided. For companies with counterparties in multiple jurisdictions, a jurisdiction-by-jurisdiction assessment is essential. Common law systems generally require an express contractual term before force majeure can be invoked at all; many civil law systems, including Jordan, instead provide a statutory remedy that can operate even without one.

III. Force Majeure Under Jordanian Law

Article 247 of the Jordanian Civil Code No. 43 of 1976 governs force majeure in Jordan, codifying automatic contract dissolution upon supervening impossibility. The Article provides as follows:

> *"In contracts binding on both sides, if force majeure appears to make the implementation of the obligation impossible, the corresponding obligation with it has expired, and the contract has been dissipated on its own."*[11]

Unlike many civil-law jurisdictions, the Jordanian Civil Code does not supply a standalone definition of Force Majeure in Article 247 itself. Instead, its meaning has been developed through the jurisprudence of the Jordanian Court of Cassation, which has consistently characterized force majeure as **an unforeseeable event that is impossible to avoid and beyond the parties' control**. Whether those conditions are satisfied is ultimately a question of fact to be determined by the courts in light of the circumstances of each case.

Accordingly, a party seeking to rely on Article 247 must establish that: (i) the event was unforeseeable at the time of contracting; (ii) it was extraordinary and beyond the parties' control; (iii) it rendered contractual performance objectively impossible, rather than merely more difficult or expensive; and (iv) there is a direct causal link between the event and the impossibility of performance.[12] The burden of proving these elements rests with the party invoking force majeure.

Force Majeure under Jordanian law is established only where an event that was unforeseeable at the time of contracting, and beyond the parties' control, renders performance objectively

[11] *Civil Code No. 43 of 1976*. Art. 247, 1976, Jordan.
[12] Hammouri, Tariq, et al. "Jordan." *Commercial Contracts 2025*, Chambers and Partners, 5 Nov. 2025, practiceguides.chambers.com/practice-guides/commercial-contracts-2025/jordan. Accessed 5 Aug. 2026

impossible. It is not enough that performance has become inconvenient, delayed, or more expensive; it must be impossible. This threshold is high. In Decision No. 964/2019, the Court held that force majeure under Article 247 requires an event that is unforeseeable, impossible to avert, and beyond the parties' control, and confirmed that a bilateral contract is dissolved by operation of law only where the event renders performance objectively impossible. The significance of the decision lies in the Court's insistence on actual impossibility: the occurrence of an external or exceptional event does not, by itself, dissolve a bilateral contract unless the event prevents the contractual obligation from being performed. The Court adopted the same restrictive approach in Decision No. 928/1997, later reaffirmed in Decision No. 2750/2015, holding that commercial hardship, increased costs, market fluctuations, or economic disruption do not, without more, constitute force majeure. Only events meeting the high threshold of unpredictability, externality, and objective impossibility justify relief under Article 247. Where performance has not become impossible but has become exceptionally burdensome, Jordanian law does not provide a separate statutory hardship doctrine equivalent to those found in other civil-law systems.

Article 247 addresses only impossibility; It provides no relief where performance becomes excessively burdensome but remains physically possible; the scenario known in comparative law as "hardship." Unlike force majeure under Article 247, hardship is addressed under Article 205 of the Jordanian Civil Code, which empowers the courts, in exceptional and unforeseeable circumstances, to reduce an obligation to a reasonable level where performance has become oppressively burdensome, although not impossible, and threatens the debtor with grave loss. While this differs from the approach adopted under Article 1195 of the French Civil Code[13] or Article 6.2.2 of the UNIDROIT Principles. [14], it nevertheless provides a limited statutory mechanism for judicial intervention. The distinction is commercially significant: where performance has become impossible, Article 247 may operate to discharge the contract; where performance remains possible but has become exceptionally onerous, relief may instead be sought under Article 205.

[13] France, *French Civil Code*, Art. 1195.
[14] International Institute for the Unification of Private Law (UNIDROIT), *UNIDROIT Principles of International Commercial Contracts 2016*, Art. 7.1.7

IV. Practical Lessons for Jordanian Businesses

The regional crisis is a reminder that force majeure provisions deserve attention. Businesses should first review existing contracts: many rely on narrow wording covering only war or natural disaster, while the present conflict has disrupted commerce through transportation interruptions, supply shortages, sanctions, and airspace closures. From a practical drafting perspective, parties to international contracts may also refer to the International Chamber of Commerce's 2020 Force Majeure and Hardship Clauses, which provide balanced model provisions that may be incorporated into commercial contracts or used as a basis for drafting tailored clauses.[15]

Second, businesses should document disruptions thoroughly. Invoking force majeure requires evidence that the event directly prevented, delayed, or substantially hindered performance, not merely that a disruptive event occurred somewhere in the region.[13]

Third, where contracts are being negotiated or renewed, parties should draft force majeure clauses or hardship clauses broadly enough to capture the risks now affecting international commerce, while remaining precise enough to be workable, and should engage counsel experienced in cross-border transactions, particularly where counterparties come from different legal traditions.[12]

V. Conclusion

When a contract is silent on force majeure, the parties are left to the governing law, and outcomes differ between jurisdictions. Jordanian law offers a degree of protection through Article 247, but it is narrow: it applies only to genuine impossibility, as Jordanian case law confirms, not to delay or expense. Domestic legislation, in other words, provides a backstop for a well-drafted contractual clause. Businesses operating in or with Jordan should treat the force majeure clause as a core piece of contractual architecture, not an afterthought.

[15] nternational Chamber of Commerce, "ICC Force Majeure and Hardship Clauses," available at ICC Model Contracts and Clauses and ICC News and Publications (accessed 8 August 2026)

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