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Article 61
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Article 61: Supervening
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Performance In:

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Commentary on the
1969 Vienna
Convention on the Law
of Treaties

**Article 61:
Supervening
Impossibility Of
Performance in ...**

Article 61 -
Supervening
impossibility of
performance Article 62
- Fundamental change
of circumstances
Article 63 - Severance
of diplomatic or

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consular relations

Article 64 - Emergence
of a new peremptory
norm of general
international law (jus
cogens)

61 - United Nations Convention on the Law of Treaties ...

In contrast to those
provisions, Art 61 and
Art 62 deal with
unforeseen
developments or
events affecting the
execution of a treaty,

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which occur outside of it and subsequent to its conclusion. Art 61 determines the fate of a treaty following a specific instance of supervening impossibility of performance, whereas Art 62 covers the fundamental change of circumstances in more general terms (→ MN 39).

Article 61. **Supervening**

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**impossibility of
performance ..**

Article 61 Supervening
impossibility of
performance. 1. A
party may invoke the
impossibility of
performing a treaty as
a ground for
terminating or
withdrawing from it if
the impossibility
results from the
permanent
disappearance or
destruction of an
object indispensable

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for the execution of the
treaty.

Vienna Convention Law Treaties - OAS

Article 61 VCLT
provides: Supervening
impossibility of
performance 1. A party
may invoke the
impossibility of
performing a treaty as
a ground for
terminating or
withdrawing from it if
the impossibility
results from the

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permanent
disappearance or
destruction of an
object indispensable
for the execution of the
treaty. ...

ESCAPING STATE RESPONSIBILITY UNDER INTERNATIONAL LAW ...

In contrast to those
provisions, Art 61 and
Art 62 deal with
unforeseen
developments or

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events affecting the execution of a treaty, which occur outside of it and subsequent to its conclusion. Art 61 determines the fate of a treaty following a specific instance of supervening impossibility of performance, whereas Art 62 covers the fundamental change of circumstances in more general terms.

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It has been maintained that article 61 (supervening impossibility of performance) and article 62 (fundamental change of circumstances) of the Vienna Convention on the Law of Treaties (“Vienna Convention of 1969”), in particular fundamental change of circumstances and the supervening impossibility of

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performance.

supervening impossibility - definition - English

Supervening impossibility is the impossibility arising after the formation of a contract. However, this arises at the time when the promisor's performance is due. Such impossibility usually arises due to facts that the promisor had no reason to

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anticipate and did not contribute to the occurrence of.

Supervening Impossibility Law and Legal Definition

...

Supervening impossibility of performance refers to the situation where performance was possible at the conclusion of the contract but subsequently becomes

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objectively and permanently impossible through no fault of the parties. The impossibility must be beyond the control of the parties and must be caused by vis major or casus fortuitus.

Coronavirus: A South African Perspective - Shepstone & Wylie

It is really an aspect of the law of discharge of contract by reason of

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supervening
impossibility or
illegality of the act
agreed to be done and
hence comes within
the purview of sec.
56.....

Section 56 lays down a
rule of positive law and
does not leave the
matter to be
determined according
to the intention of the
parties.”

**Short notes on the
Application of the**

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**Doctrine of
Frustration**

'The legal rules relating to initial and supervening impossibility of performance, with their consequence, in certain circumstances, of the voidness of an agreement or the extinction of the obligations created by an agreement, relate to the initial or supervening impossibility of

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performance of the obligations purported to be created or created by the agreement.'

IN THE HIGH COURT OF SOUTH AFRICA GAUTENG LOCAL DIVISION ...

by Corbin in
Supervening
Impossibility of
Performing Conditions
Precedent (1922) 22
Columbia Law Rev.
421, 423: "... a fact the
existence or future

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occurrence of which is uncertain, and in the absence of which certain contemplated legal relations will not exist."

Supervening Impossibility of Performing Conditions ...

The articles do not attempt to define the content of the international obligations, the breach of which gives rise to

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responsibility. This is the function of the primary rules, whose codification would involve restating most of substantive customary and conventional international law. (2) Roberto Ago, who was responsible for establishing ...

Draft articles on Responsibility of States for ...

Impossibility Of

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Performance As A
Defense To Breach Of
... ... Introduction:

Impossibility Of Performance As A Defense To Breach Of ...

The doctrine of impossibility generally applies where performance is impossible due to: changes in domestic law; the death or illness of an individual identified to personally

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Performance

perform an essential ...

**Impossibility or
Impracticability of
Contractual ...**

Article 79 CISG only governs impossibility of performance and the majority of academic opinion supports that a disturbance which does not fully exclude performance, but makes it considerably more difficult / onerous (e.g., change of circumstances,

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hardship, economic
impossibility,
commercial
impracticability, etc.)
cannot be considered
as an ...

Guide to Article 79 - Institute of International ...

Impossibility of
performance is a
doctrine whereby one
party can be released
from a contract due to
unforeseen
circumstances that

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Performance
render performance
under the contract
impossible. How Will
the Court Respond?
When a court looks at
this type of legal
dispute, it will have to
look at the condition of
the performance based
on the circumstances
that ...

Impossibility of Performance: Everything You Need to Know

Analyzing the law, the

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court reiterated that the defense of impossibility will not succeed if the impossibility is self-created, or due to one's own fault. Further, impossibility will only make the contract in question void if the impossibility is absolute. It must not be possible for anyone else in the same situation to make that performance.

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**Impossible? The
contractual defense
of impossibility of ...**

In common law, for the defense of "impossibility" to be raised performance must not merely be difficult or unexpectedly costly for one party, there must be no way for it to actually be accomplished; however, it is beginning to be recognized that

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"impossibility" under this doctrine can also exist when the contemplated performance can be done but only at an excessive and unreasonable cost, i.e., commercial impracticability.

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