

# Examining Legal Termination (Ipso Facto Dissolution) in the Iraqi Legal System in Comparison with the CISG

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## Abstract

This study investigates the concept of *ipso facto* (automatic) termination of contracts within the Iraqi legal system in comparison with the United Nations Convention on Contracts for the International Sale of Goods (CISG). Contract termination, as one of the primary mechanisms for ending contractual obligations, holds particular significance in contract law and may occur under various statutory or contractual conditions. The objective of this research is to conduct a comparative analysis of the principles and foundations of contract termination across three different legal systems and to evaluate their legal compatibility and alignment. The methodology of this study is primarily analytical and comparative, involving a detailed review of legal texts, judicial precedents, and scholarly articles concerning the dissolution of contracts under Iraqi law as well as the provisions of the CISG. Findings reveal that both the Iraqi legal system and the CISG serve as legal frameworks governing commercial relations; however, there are notable similarities and differences between them in terms of legal processes and requirements. The Iraqi legal system is largely influenced by codified civil law derived from the Majalla (Ottoman Code) and Islamic legal traditions, whereas the CISG is an international convention specifically designed to facilitate cross-border trade and addresses commercial issues irrespective of national legal systems. Ultimately, a comparative assessment of contract termination in the Iraqi legal system and the CISG highlights the need for a flexible and adaptive legal framework in international commercial transactions. Each of these systems reflects distinct legal perspectives on termination, shaped by the unique cultural and social contexts in which they operate.

**Keywords:** Contract termination, Iraqi law, Convention on the International Sale of Goods (CISG), comparative law analysis.

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## 1. Introduction

One of the fundamental and frequently encountered issues in contract law is the termination or dissolution of contracts. Contracts, as the principal instruments regulating legal relations between natural and legal persons, hold significant importance in society, and termination (*ipso facto* dissolution) constitutes one of the key methods for their discontinuation, playing a pivotal role in determining the rights and obligations of the parties involved. Given the growing expansion of international trade and the importance of private international law, it is imperative to examine contract termination not only from the perspective of domestic law but also from the standpoint of international legal systems, particularly the United Nations Convention on Contracts for the International Sale of Goods (CISG). Such an examination can lay the groundwork for the development and enhancement of national legislation, including that of Iraq, in alignment with global standards and practices.

In Iraqi law, contract dissolution is governed by specific frameworks. The Iraqi Civil Code, grounded in Islamic jurisprudence and a mixed legal system, contains particular provisions concerning both statutory and contractual dissolution. Within this legal context, concepts such as *faskh* (rescission) and *tafāsukh* (mutual dissolution) are often employed in situations involving *ipso facto* termination, which must be analyzed in comparison with other legal systems—especially Iran and the CISG.

The CISG, as an international legal instrument governing global contracts for the sale of goods, sets forth specific regulations on contract dissolution. According to the Convention, termination can occur not only due to statutory reasons such as fundamental breach (Article 49 of the CISG) but also through mutual agreement between the parties. Reviewing and analyzing these provisions and comparing them with domestic laws in Iran and Iraq can contribute to a more profound understanding of both international and national legal relationships.

Contracts serve as vital tools for organizing legal interactions among individuals and institutions and play a critical role in everyday life and commercial transactions. With the rise in global trade and international contracts, the issue of contract termination—particularly in cross-border commerce—has gained increased importance. *Ipso facto* termination refers to the dissolution of a contract without judicial intervention, resulting from specific events predetermined by the parties or by law. Thus, an in-depth understanding of the conditions and legal frameworks governing *ipso facto* termination across various legal systems and international instruments is of substantial significance.

With the exponential growth of international commerce and the conclusion of commercial contracts between parties from different jurisdictions, disputes over the termination of contracts and the conditions under which it occurs have become more frequent. In this context, the CISG, as a global convention, aims to establish a unified and comprehensive regulatory framework for international sales contracts. Examining how termination is structured within the CISG can help traders and legal practitioners better understand the legal requirements and prevent disputes.

National legal systems often diverge from the CISG in many respects, which can lead to differences in interpreting and applying the legal provisions regarding contract termination. For instance, while Iran and Iraq share certain general civil law principles due to the influence of Islamic jurisprudence, there are still significant distinctions in the execution of contract termination in both jurisdictions. Consequently, a comparative study of Iranian and Iraqi domestic laws with the CISG can greatly aid in the accurate interpretation and practical application of termination rules in international commerce.

As countries such as Iran and Iraq continue to engage with the dynamics of global trade and adopt certain international legal norms, it becomes essential for their domestic legislation to align with internationally accepted standards. The examination of statutory and contractual termination from the viewpoint of the CISG, and its comparison with the domestic laws of Iran and Iraq, can contribute to the reform and enhancement of national regulations, leading to greater clarity and efficacy in commercial dealings.

In numerous instances, judicial practices regarding contract termination vary across jurisdictions, presenting practical challenges for judges and legal practitioners. This is especially critical in cases where the contracting parties hail from different countries with diverse legal traditions. Establishing a clear understanding of the grounds and governing rules of termination can mitigate the risk of extensive legal disputes.

Hence, the necessity for research in this area is evident, as the absence of clear and harmonized laws regarding contract termination may result in legal ambiguities and inconsistencies. Given that Iraq's legal system encounters similar practical challenges, a comparative study of contract termination within Iraqi law can aid in improving the country's legislation and judicial practices. Thus, the central objective of this research is to examine *ipso facto* termination under Iraqi law in comparison with the CISG.

## 2. Methodology

Research methodology involves the systematic review of the processes applied in conducting the study, specifying how data are collected and analyzed. This study, which focuses on statutory and contractual termination under the CISG and the Iraqi legal system, employs analytical-descriptive and comparative methods. The data sources in this study are derived from legal texts, primary sources (such as Iraqi national legislation and the text of the CISG), as well as scholarly articles, books, and previous studies on contract termination. The research tools include library-based studies and content analysis.

## 3. Termination (Ipso Facto Dissolution)

Statutory termination is similarly implemented across many legal systems. In French law, for example, Article 1184 of the Civil Code explicitly outlines the conditions under which a contract may be dissolved by law. According to this article, the contract automatically ends due to the failure to perform essential obligations (Müller-Chen, 2016). This form of termination generally occurs when certain conditions arise that directly and automatically lead to the contract's conclusion, without requiring further action by the parties.

In contrast to statutory termination, contractual termination refers to the end of a contract based on the explicit or implicit agreement of the parties. This type of termination occurs when the contracting parties agree—either directly or indirectly—that the contract should come to an end. Such agreement may be explicitly stated in the contract text or may be inferred from its terms and conditions.

Contractual termination holds particular relevance in reciprocal and commercial contracts. In such contracts, the parties may agree that if specific obligations are not fulfilled, or under certain defined conditions, the contract shall terminate. For example, in French law, Article 1184 of the Civil Code specifically addresses contractual termination and outlines the relevant conditions and terms (Müller-Chen, 2016). This provision focuses especially on the scenarios in which the parties have explicitly agreed upon termination and sets forth how these agreements should be executed.

In international law, the CISG also specifically addresses various forms of contract termination. According to Articles 49 and 64 of the CISG, the parties may terminate the contract under certain circumstances, including in the case of a fundamental breach. This form of termination may occur due to the failure to perform essential obligations or because of a serious violation of the contract (Schwenzer, 2016). These provisions are designed to establish the grounds and mechanisms for termination in international contracts and pay special attention to the distinctions between statutory and contractual termination.

Ultimately, analyzing the different types of contract termination necessitates a comparative study across legal systems to clearly identify their differences and similarities. Such comparative analysis contributes to a better understanding of the concept of termination and its conditions within various legal frameworks and enables a more precise evaluation of its impact on both international and domestic contractual relationships.

## 4. Contract Termination (Ipso Facto Dissolution) in the Iraqi Legal System

The Iraqi Civil Law, which is predominantly influenced by the French legal tradition, shares foundational principles and rules with other civil law systems. Within this framework, contract termination is recognized as one of the methods for dissolving agreements, and specific rules concerning termination are established under Iraqi civil law and judicial practice.

In Iraqi civil law, contract termination is specifically addressed in Articles 173 to 180 of the Iraqi Civil Code. These provisions encompass rules related to the obligation of performance and the conditions under which termination may occur. For instance, under Article 173, either party may invoke termination if the other party fails to fulfill the contract. Thus, clear and predictable regulations are available under which the parties may exercise their rights.

Moreover, the concept of *faskh* (termination) or *infisakh* (ipso facto dissolution) in Iraqi civil law is classified into two categories: termination based on contract and termination based on offer and excuse. The former refers to situations in which

the parties mutually agree to terminate the contract, while the latter pertains to circumstances in which one party, due to breach of obligations or the existence of valid excuses, is entitled to withdraw from the agreement (Ahmed, 2020).

One of the conditions that may lead to termination is the buyer's failure to pay for goods or services. In Iraqi civil law, non-payment is considered a justifiable ground for termination. Article 178 of the Iraqi Civil Code explicitly states that if one party fails to fulfill financial obligations, the aggrieved party may terminate the contract. This demonstrates the legal system's concern with protecting the seller's rights and interests in the event of the buyer's default.

In addition to financial conditions, the timing of performance also plays a role. If a party fails to fulfill contractual obligations within the agreed time, the other party may seek contract termination. In other words, if the buyer fails to make payment on time, the seller is entitled to invoke termination. These rights and responsibilities are established under specific provisions of Iraqi civil law, offering merchants and entrepreneurs legal recourse in case of non-compliance (Al-Saadi, 2016).

To initiate contract termination, the terminating party must meet certain requirements. One such requirement is providing notice to the counterparty. According to Article 179 of the Iraqi Civil Code, if a party intends to terminate the contract due to the other party's failure to perform, they must notify the breaching party and allow a reasonable opportunity to fulfill their obligations. If the obligated party fails to comply within the given timeframe, the other party has the right to terminate the contract.

It is important to note that once termination occurs, neither party remains bound by contractual obligations. Therefore, contract termination serves as a crucial mechanism for resolving disputes and restoring legal balance in commercial relationships. In Iraqi commercial courts, termination is considered an alternative method for achieving justice and resolving business disputes (Safaei, 2012).

In addition, contract termination has implications for broader commercial relationships. Termination not only affects the contracting parties but may also indirectly impact other traders and business partners. For example, if a seller terminates a contract due to the buyer's non-payment, it can adversely affect the seller's reputation and the overall market for the goods. Thus, commercial agreements must be designed to ensure that parties fulfill their contractual obligations and prevent circumstances that could lead to termination.

In summary, contract termination under Iraqi law, given the presence of clear rules and conditions, serves as an effective tool for protecting the rights of the contracting parties. This is particularly important in commercial agreements, where failure to perform can result in substantial losses. Therefore, familiarity with termination provisions and how they are applied is essential for merchants and traders to conduct business confidently and defend their rights effectively.

## 5. Instances of Legal Termination under Iraqi Law

In the Iraqi legal system, legal termination refers to the automatic dissolution of a contract without the need for specific action by the parties. This is particularly significant when legal conditions for termination are met. According to Iraqi civil law, legal termination typically occurs in the following cases:

1. **Lack of Legal Capacity:** Under Article 106 of the Iraqi Civil Code, if one of the parties lacks the legal capacity to contract, the agreement is automatically void. Capacity refers to the legal ability of parties to undertake contractual obligations, and its absence results in ipso facto dissolution of the contract (Al-Banna, 2015).
2. **Non-Performance of Obligations:** Article 150 of the Iraqi Civil Code clearly provides that if one party fundamentally breaches their obligations, the other party may seek termination. This article specifically addresses instances of substantial non-performance (Al-Banna, 2015).
3. **Loss of Contract Subject Matter:** Article 145 of the Iraqi Civil Code stipulates that if the subject matter of the contract is entirely destroyed or its performance becomes impossible, the contract shall be automatically terminated. This principle aligns with general doctrines of termination in civil law systems (Al-Banna, 2015).

## 6. Contractual Termination and the Role of Party Autonomy

Contractual termination refers to the mutually agreed-upon dissolution of a contract. In Iraqi law, the parties' mutual consent plays a central role in contractual termination and can directly result in the cessation of contractual obligations. The following aspects of contractual termination in Iraqi law are noteworthy:

1. **Mutual Agreement:** According to Article 132 of the Iraqi Civil Code, the parties may terminate the contract by mutual consent. This agreement may be verbal or written, although written form is recommended for ensuring its validity (Al-Banna, 2015).
2. **Conditions for Contractual Termination:** Certain conditions may lead to contractual termination. For instance, if one party intentionally breaches or violates specific contractual provisions and the other party consents to termination, the contract shall be considered dissolved. This issue is addressed under Article 133 of the Iraqi Civil Code (Al-Banna, 2015).
3. **Effects of Contractual Termination:** Generally, the effects of contractual termination resemble those of legal termination. However, when a contract is terminated by agreement, the parties may negotiate and arrange the settlement of outstanding financial obligations. Article 134 of the Iraqi Civil Code acknowledges this and provides provisions for resolving financial disputes following termination (Al-Banna, 2015).

## 7. Judicial Practice in Iraq Regarding Contract Termination

Judicial practice in Iraq plays a significant role in the interpretation and enforcement of the country's civil laws, particularly concerning contract termination. The opinions of legal scholars and judicial rulings generally influence how civil laws and legal principles are applied and interpreted. This section examines court decisions and juristic opinions on contract termination in the Iraqi legal system and analyzes key aspects of these perspectives.

### 7.1. Review of Legal Scholars' Opinions

Iraqi legal scholars have extensively analyzed contract termination, exploring its legal foundations and practical applications. Their opinions are particularly noteworthy in the following areas:

- **The Role of Interpretation in Contract Termination:** One of the most significant themes in Iraqi legal commentary is the role of interpreting civil law provisions related to contract termination. Scholars emphasize that interpretation should aim to achieve justice and preserve the interests of both parties. Specifically, when the law is ambiguous or silent, judicial interpretation can serve as a means to clarify provisions and implement equitable principles (Al-Khazraji, 2013; Al-Nasseri, 2017).
- **Comparative Analysis with Other Legal Systems:** Some Iraqi jurists have engaged in comparative legal analysis between Iraqi contract law and other systems, particularly civil law traditions like French law and other Arab countries. These studies help illuminate both harmonies and divergences, contributing to a more comprehensive understanding of contract termination principles (Ahmed, 2020).
- **Proposals for Legal Reform:** Legal scholars also present proposals for legislative reform in the area of contract termination. These recommendations typically aim to enhance legal clarity and facilitate enforcement. For example, some argue that the Iraqi Civil Code requires amendments to better address specific and nuanced termination scenarios (Al-Khalifa, 2019).

### 7.2. Court Rulings in Iraq Regarding Contract Termination

Iraqi court decisions have had a significant impact on how contract termination is understood and applied. The following rulings are particularly relevant:

- **Judicial Decisions on Non-performance of Obligations:** Iraqi courts have addressed the issue of non-performance in numerous cases and have consistently recognized it as a legitimate ground for contract termination. For instance, in a 2021 case, the court ruled in favor of termination due to one party's failure to fulfill contractual obligations, demonstrating judicial commitment to upholding contractual commitments.

- **Judicial Decisions on Mutual Agreement:** In cases where both parties mutually agree to terminate a contract, Iraqi courts generally uphold such agreements. A notable example is a 2018 case in which the court affirmed the validity of a mutual termination agreement and proceeded with the implementation of the related financial arrangements.
- **The Role of Judicial Precedent in Civil Law Interpretation:** Judicial precedent plays a central role in interpreting civil law in Iraq, including provisions on contract termination. Courts often rely on general civil law principles and judicial precedents, which directly influence legal practice and future rulings (Ali, 2019).

## 8. Comparison Between the Iraqi Legal System and the CISG

A comparison between the Iraqi legal system and the United Nations Convention on Contracts for the International Sale of Goods (CISG) concerning contract termination can enhance the understanding of their similarities and differences. The CISG, which is specifically designed to regulate international commercial transactions, establishes key principles for contract termination that can be contrasted with domestic legal systems. This section offers a comparative analysis of the Iraqi legal framework and CISG provisions on contract termination.

### 8.1. *The United Nations Convention on Contracts for the International Sale of Goods (CISG)*

The CISG is one of the most comprehensive international legal instruments in the field of international trade, established to facilitate and standardize international commercial transactions, especially regarding the sale of goods. The Convention was signed in Vienna, Austria on April 11, 1980, and has since served as a legal framework for international sales contracts. The CISG emphasizes the rights and obligations of contracting parties and aims to reduce legal uncertainties to promote international trade (Ahmed, 2020).

The CISG includes 101 articles that regulate a wide range of subjects, including contract formation, seller and buyer obligations, remedies for non-conforming goods, and rules on contract termination. Its formal title is “United Nations Convention on Contracts for the International Sale of Goods,” and it aims to enable buyers and sellers from different legal backgrounds to engage in trade without the complexity of local legal systems (Ali, 2019).

The CISG is especially important because it creates a shared and accessible legal framework despite cultural and legal differences across countries. It holds particular value for countries with varying legal systems by enabling parties to enter into contracts based on a common standard. While each country retains the right to maintain its own commercial laws, the CISG plays a complementary and harmonizing role (Safaei, 2012).

One of the Convention’s key features is that it does not require domestic legal application, allowing parties to rely on its provisions without being bound by local legal requirements. This feature enhances legal certainty and facilitates smoother cross-border transactions. Additionally, because the CISG operates independently of national legislative changes, it offers international traders a highly usable legal framework (Goldust Jouibari, 2013).

The CISG outlines specific rules for contract formation, emphasizing the conditions under which an offer and acceptance result in a binding agreement. It highlights the necessity of simultaneous and unequivocal expression of mutual consent, which forms the legal basis for contract formation under the Convention (Ahmed, 2020).

The Convention separately details the obligations of sellers and buyers. Sellers are required to deliver goods in conformity with contract specifications, while buyers are obligated to pay the agreed price. If a seller fails to deliver conforming goods, the buyer has the right to claim damages or, in certain cases, to terminate the contract (Al-Saadi, 2016).

Moreover, the CISG addresses contract modification and adjustment, offering a flexible framework for revising obligations in response to changing commercial and economic conditions. This capacity for adaptation contributes to a smoother contractual process (McKendrick, 2014).

A particularly important provision in the CISG is the treatment of defective goods. The Convention clearly defines standards for identifying defects related to quality, quantity, and type of goods and provides legal remedies for buyers. For example, if goods are deemed defective, the buyer may terminate the contract or exercise other rights provided under the Convention (Ahmed, 2020).



The CISG also includes rules on compensation for damages resulting from non-conforming goods. A buyer may claim compensation for losses such as unrealized profits, economic harm, or business interruption. These legal remedies enhance the efficiency of trade and provide legal tools for commercial protection (Al-Khalifa, 2019).

Despite the numerous advantages of the CISG, some scholars argue that ambiguities exist in its interpretation and application. One such issue stems from the diverse legal traditions of different countries, which may lead to inconsistent interpretations and hinder the effective protection of contractual rights (Al-Nasseri, 2017).

Technological advancement and new commercial practices also suggest that the CISG may require revisions in the future. For example, the rise of e-commerce introduces new challenges such as the nature of digital sales and associated liabilities, which may need to be incorporated into the Convention's framework. As such, member states and international trade law experts must consider reforms to keep the CISG relevant in an evolving commercial landscape (Ali, 2019).

In conclusion, the CISG functions as a comprehensive international legal framework that pursues key objectives in global commerce. It reduces legal uncertainty, enhances predictability in trade relations, and provides clarity in international contracts. Nonetheless, addressing current challenges and ensuring the Convention's alignment with modern commercial practices is essential to sustaining its effectiveness in the future.

## 8.2. *Legal Termination under the CISG*

Legal termination is one of the core concepts within the United Nations Convention on Contracts for the International Sale of Goods (CISG), granting parties the right to terminate a contract under specific conditions when legal obligations are breached. Legal termination under this Convention establishes particular obligations for the parties and allows them to end the contract in situations where fulfillment is no longer possible. Articles 49 and 64 of the CISG specifically address this issue and clearly define the legal grounds and boundaries for termination (Schwenzer, 2016).

Article 49 of the CISG stipulates that the buyer may declare the contract avoided if the seller has committed a fundamental breach of contract. This article underscores the importance of contractual performance in international agreements, as fulfillment of obligations is considered a foundational principle of any contract, particularly commercial ones. A fundamental breach means that the failure to perform threatens the core purpose of the contract and undermines the economic expectations of the parties. Therefore, the buyer has the right to declare termination if it becomes clear that the seller has seriously and substantially failed to perform their obligations.

A third condition for legal termination specifically relates to the nature of the breach and its impact on the contract. If the breach is severe enough to make the continuation of the contract intolerable, the buyer is permitted to terminate the contract and is also entitled to claim damages. This ensures that the buyer can protect their interests and, in cases of non-performance by the seller, can rely on reasonable legal remedies.

Article 64 of the CISG similarly allows the seller to terminate the contract in cases of fundamental breach by the buyer. This provision also emphasizes proper and timely performance of contractual obligations. In other words, if one party fails to perform correctly and on time, to the extent that the contract's execution becomes impossible or is severely impeded, the other party is authorized to terminate the contract and seek damages. These provisions highlight the CISG's commitment to protecting parties and ensuring the enforcement of their rights in international trade.

Importantly, according to the CISG, before a buyer may declare the contract avoided, they must give the seller a reasonable opportunity to remedy the failure. This requirement emphasizes the principles of fairness and good faith in international transactions, demonstrating that parties should first attempt to resolve disputes amicably. Such an approach also prevents unilateral breaches and distrust in commercial relations, opening the path for more constructive dispute resolution (Flechtner, 2013).

It is essential for buyers and sellers to familiarize themselves with the provisions and obligations of the CISG before entering international contracts. Such awareness enables effective fulfillment of obligations and provides clarity on how to defend one's rights in the event of breach. Furthermore, this knowledge reduces tension and conflict between parties and facilitates smoother transactions.

Another point of note is that termination can significantly affect the business relationship between the parties and, consequently, their commercial credibility and reputation. Therefore, termination should not be viewed as a simple or consequence-free act. Parties must carefully consider the possibility and implications of termination and, where feasible, seek alternative solutions to resolve disputes.

Given that the CISG functions as a comprehensive framework for international sales contracts, a precise understanding of key concepts such as legal termination can help merchants and other stakeholders in international trade navigate their business more effectively and avoid legal complications. In this way, by increasing awareness of legal requirements, parties can maximize commercial opportunities while ensuring fulfillment of their obligations.

Ultimately, legal termination under the CISG serves as an important mechanism within international commercial law, designed to safeguard the rights of buyers and sellers and promote fair and efficient trade. Adherence to and understanding of the CISG's principles and rules can not only preserve party rights but also foster stable and sustainable commercial partnerships. Therefore, merchants and legal professionals must carefully examine the legal dimensions and practical implications of legal termination in international trade relations.

### 8.3. *Contractual Termination under the CISG*

Contractual termination under the CISG represents a key aspect of contract law and international trade. The CISG, as a legal framework for international commercial agreements, fundamentally enables parties to terminate their contracts under specific conditions. This termination may occur legally due to non-performance or contractually through mutual agreement.

A notable feature of the CISG is its explicit recognition of the parties' right to modify or terminate their contract by mutual agreement. Article 29 of the CISG acknowledges that parties may, by mutual consent, not only amend the terms of the contract but also declare it terminated (Schwenzer, 2016). This becomes especially useful when parties determine that continued cooperation is no longer beneficial or when market conditions have significantly changed.

In the business world, various factors may lead the parties to conclude that continuing the contract is no longer viable. These factors may include changes in economic conditions, inability of one party to supply necessary resources, or issues related to price fluctuations. Under such circumstances, the contract may progressively approach termination. Hence, mutual termination provides a powerful tool for traders and business actors to make rational decisions regarding the management of their commercial relationships.

According to Article 29, the costs of disagreement over continued performance may be managed through mutual understanding rather than through litigation. In other words, this approach helps prevent many legal and financial conflicts and allows the parties to manage their business relations effectively without resorting to courts or arbitration.

Nevertheless, to ensure effective contractual termination, it is essential for the parties to outline the conditions and prepare appropriate documentation. This documentation may include correspondence and explicit confirmations of the parties' mutual agreement to terminate the contract. A lack of proper documentation can result in future ambiguity and impact the rights of either party.

Another important point regarding contractual termination under the CISG relates back to legal termination. If one party fails to effectively fulfill its obligations, the other party may terminate the contract. That is, when a party fundamentally breaches its obligations, Article 49 grants the buyer the right to declare the contract avoided. This aspect is especially critical in international commerce, where non-performance may be due to external factors such as wars or global economic disruptions.

In today's world, characterized by rapid economic and political changes, legal termination serves as a vital instrument in support of international trade. Given the complexity and geographic dispersion of supply chains, parties may not always be able to continue a contract. In such cases, the availability of termination mechanisms may help establish stronger and more effective relationships among trading partners.

Examining the social and economic consequences of termination under the CISG is also useful. Termination can have far-reaching impacts on commercial relations and markets. For example, termination of a contract may erode trust between the parties and affect future dealings. Hence, cultivating a business culture grounded in good faith and fairness in commercial interactions is of particular importance.



Moreover, maintaining effective communication and striving for amicable resolution of disputes should always be a priority, as termination can damage the business reputation of both parties. In contrast, seeking flexible and mutual solutions may help preserve commercial relationships and strengthen future cooperation.

In conclusion, contractual termination under the CISG, as a core principle in international commercial law, creates a more flexible and efficient space for trade. Parties should fully understand their rights and obligations to make the most of these legal provisions. With a commitment to good faith and maintaining commercial ties, termination can serve as a natural and reasonable option for managing trade relationships.

## 9. Conclusion

The present study has analyzed and compared contract termination (*ipso facto* dissolution) under the Iraqi legal system and the United Nations Convention on Contracts for the International Sale of Goods (CISG). Both the Iraqi legal framework and the CISG serve as foundational legal instruments in commercial relations. However, examining these two systems reveals critical similarities and differences in terms of legal processes and requirements. The following discussion provides a comparative analysis of these two legal systems.

The Iraqi legal system is largely influenced by the Majalla Code and Islamic legal traditions, whereas the CISG is an international treaty specifically designed to facilitate international trade and addresses commercial matters irrespective of national legal systems. Accordingly, the conclusion and execution of contracts in Iraq are often shaped by Islamic legal principles and local customs. For example, the Iraqi Civil Code emphasizes foundational contractual doctrines, particularly in provisions concerning the performance of contracts and binding obligations (Nasiri, 2008).

In contrast, the CISG, as an international legal instrument, has established a structured set of rules tailored for international commerce. It aims to harmonize and unify legal rules related to international sales contracts, offering clear provisions concerning the formation, execution, and termination of such contracts. While the Iraqi legal system focuses on the enforcement of local contractual norms, the CISG aims to streamline and simplify cross-border trade (Ahmed, 2020).

A major point of comparison between the two systems is their respective treatment of contract termination and non-performance. The Iraqi legal system, under its civil code, recognizes the concept of contractual dissolution—particularly when a party fundamentally breaches its obligations. The injured party is permitted to terminate the contract if non-performance undermines the core purpose of the agreement (Ahmed, 2020).

In comparison, the CISG provides a more specific and clearly defined legal framework for termination, especially under Articles 49 and 64. These articles allow for termination in cases of fundamental breach—where non-performance threatens the very essence of the contract (Schwenzer, 2016). The CISG thus offers a more flexible and structured approach to contract termination, enabling parties to respond more effectively to breaches. Overall, the CISG adopts a global and multilateral perspective, whereas the Iraqi legal system remains rooted in local jurisprudence.

Another essential area of divergence concerns the remedies for breach. The Iraqi legal system, based on general principles of civil liability, allows the injured party to seek damages for non-performance or termination. Compensation may include both direct losses and consequential commercial harm. Meanwhile, the CISG specifically addresses remedies under Article 74 and subsequent provisions, establishing detailed guidelines for damage calculation and emphasizing fairness and proportionality in compensation claims (Flechtner, 2013).

A further distinction arises in how these systems regulate commercial norms and oversee legal compliance. The Iraqi legal system operates primarily under national legislation and customary practices, whereas the CISG—being an international convention—is shaped by a diverse range of legal cultures and systems. This pluralistic influence enables the CISG to introduce broader standards for monitoring commercial behavior and legal remedies at the global level.

Despite their differences, both the Iraqi legal system and the CISG aim to define and protect commercial rights and obligations within their respective scopes. A nuanced understanding of both systems enables business professionals to navigate both domestic and international legal landscapes more effectively. This awareness empowers them to operate in compliance with applicable rules and maximize commercial opportunities while minimizing legal risks.

**Similarities:**

Both systems recognize legal and contractual termination. In both legal frameworks, failure to perform contractual obligations is considered a principal ground for termination, and mutual agreement between the parties is a valid mechanism for ending the contract.

**Differences:**

- **Legal Provisions:** In the Iraqi legal system, termination may occur automatically under certain conditions, while the CISG emphasizes fundamental breach and the failure to meet essential obligations.
- **Mutual Agreement:** Under the CISG, mutual termination is formally governed by Article 29, whereas in Iraqi law, it generally follows the civil code and may require compliance with specific formalities.

The Iraqi legal system, grounded in civil law, places strong emphasis on contractual obligations. According to Article 104 of the Iraqi Civil Code, a contract may be legally terminated if one party breaches its obligations. Similar to Iranian law, the Iraqi framework stresses the importance of enforcing binding commitments and allows termination through mutual agreement—effectively introducing a legal construct akin to bilateral rescission ([Al-Eisawi, 2010](#); [Müller-Chen, 2016](#)).

The CISG also presents a more structured and comprehensive analysis of termination. Article 49 explicitly grants the buyer the right to terminate the contract in the event of non-performance by the seller. This reflects the Convention's emphasis on the notion of "fundamental breach," offering the buyer a streamlined and effective mechanism for enforcement. The CISG, thus, reflects the commercial realities and expectations of the international trading community and is aligned with principles of economic cooperation and market efficiency ([Schwenzer, 2016](#)).

While the CISG does not prescribe specific time limits for invoking termination, both parties are expected to act reasonably and commercially. Consequently, concepts such as notice, good faith, and timing play a central role in contract interpretation and enforcement.

The concept of "fundamental breach" in the CISG not only facilitates termination but also imposes significant responsibility on both buyer and seller to assess whether a breach is substantial enough to frustrate the contract. In contrast, legal systems like Iraq and Iran may apply broader standards, focusing more on the intent and spirit of the contract rather than detailed quantitative thresholds.

There are also notable distinctions in how damages are assessed. Although both Iraqi law and the CISG adhere to similar principles of compensation, the nationality of the parties and the nature of the contract can influence the extent and scope of recovery. Under the CISG, specific formulas for calculating damages are not rigidly defined and are instead left to general principles and contractual provisions ([Flechtner, 2013](#)). Thus, parties must act in good faith and tailor their claims to the unique circumstances of each contract.

From a cultural and social standpoint, the impact of contract termination varies across legal systems. In jurisdictions such as Iraq and Iran, termination may carry reputational and trust-related consequences. In contrast, under international frameworks like the CISG, termination is more closely tied to maintaining efficient trade relations and enhancing commercial exchange. These interactions are not limited to contractual agreements but also affect broader cooperation and solidarity among states.

Contractual termination in Iraqi law also depends on party consent. While parties can stipulate specific termination conditions in the contract, the civil code does not extensively elaborate on such provisions ([Al-Banna, 2015](#)). In contrast, the CISG explicitly contemplates contractual termination, particularly through mutual agreement. The Convention respects the parties' autonomy to define and adjust termination clauses and offers structured principles for this purpose ([Schwenzer, 2016](#)). This reflects a strong similarity between Iraqi law and the CISG in the domain of contractual termination, although the CISG provides more detailed and explicit regulation.

In conclusion, the comparative analysis of contract termination under the Iraqi legal system and the CISG highlights the need for a flexible and harmonized legal framework in commercial interactions. Each system reflects distinctive aspects of termination shaped by its respective cultural and legal context. By understanding these differences and similarities, business actors can operate more effectively in international contracts and leverage opportunities to enhance commercial productivity.

It is recommended that Iraq's domestic laws on contract termination be further aligned with the principles of the CISG to enhance legal coherence and reduce cross-border disputes. Promoting education and awareness in both domestic and international legal sectors regarding contract termination and the CISG can improve understanding and application of relevant

rules. Further research is suggested on comparative contract termination laws and their impact on international commerce, as such efforts could support legislative improvements and facilitate global trade. Finally, in light of Iraq's historical influence by the French legal tradition, reforms should be introduced to modernize termination provisions and increase flexibility, ensuring greater compatibility with international legal standards and the CISG.

### **Authors' Contributions**

Authors contributed equally to this article.

### **Declaration**

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

### **Ethical Considerations**

All procedures performed in this study were under the ethical standards.

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### **Conflict of Interest**

The authors report no conflict of interest.

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