

PERSONAL INSOLVENCY PROCESSES IN ISRAEL INTERNATIONAL COMPARISON¹

- An economic rehabilitation proceeding is one in which, at its end, the debtor is rehabilitated and given a fresh start. The extent of the proceeding's effectiveness is reflected in the Leniency Index, a metric that the economic literature recognizes as a determinant of many economic and financial developments.
- After the Insolvency and Financial Rehabilitation Law went into effect in late 2019, personal insolvency procedures in Israel positioned the country's Leniency Index in the middle of rankings among a broad sample of countries.
- Israel did not rank higher mainly due to high costs of filing for personal insolvency and the minimum level of debt needed for filing, which is high by international standards.
- Thought should be given to reducing the cost to the debtor of filing for personal insolvency in Israel, along with lowering the minimum threshold of debt or broadening the criteria for decreasing the indebtedness of low-asset and low-income debtors.

1. Background

The Insolvency and Financial Rehabilitation Law, 5778-2018, effective September 2019², brought about a major change in the personal insolvency field in Israel. Its main purposes were to establish the debtor's financial rehabilitation as a central value, increase the share of returns to creditors, enhance the stability and certainty of law, and make proceedings more effective—faster and lighter in terms of bureaucratic burden. A World Bank working group report on the topic defined effective financial rehabilitation as the type that ends with the debtor being rehabilitated and given a “fresh start.”³ The economic explanation that underlies this argument is that an effective proceeding encourages business enterprise, incentivizes labor effort among debtors who are undergoing rehabilitation, and therefore, promotes macroeconomic productivity. This approach encourages persons who are typified by over-indebtedness and struggle to service their debts to embark on an orderly and effective proceeding with which they may cope with debt repayment. However, legislation that allows debtors to launch insolvency proceedings more easily may also have adverse effects, *inter alia* on borrowers' incentives to engage in appropriate financial conduct. Accordingly, the World Bank rapporteurs emphasize the immense importance of distinguishing between borrowers who amass debts deliberately or malevolently and those who tumble into financial distress in good faith due to the realization of a financial risk that they took or a chain of events beyond their control.

Revising insolvency policy in the direction of greater compassion toward the debtor is not unique to Israel; it reflects a broad global trend. A move toward regulating insolvency proceedings began in the late 1970s. The United States started the process, setting a standard for additional countries to follow. Since then, no

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² In the past, personal insolvency proceedings in Israel were regulated under the Bankruptcy Ordinance, which was based largely on a British ordinance from 1914; its new version (1980) was also grounded in the Mandatory ordinance and remained in effect until it was replaced September 2019.

³ See the World Bank working-group report on legal personal insolvency frameworks: <https://documents1.worldbank.org/curated/en/668381468331807627/pdf/771700WP0WB0In00Box377289B00PUBLIC0.pdf>

few European countries have begun to promote and pass legislation that regulates personal insolvency proceedings—first the more advanced economies in Scandinavia and Western Europe and, from 2000 on, many others. The list of countries that settled their personal insolvency laws and the year in which each one did so appears in Appendix 1. Walter et al. (2022) found that these countries’ settlement of insolvency proceedings and meaningful legislative reforms led to increases in their leniency indices.⁴

Ofir, Berzani, and Stein (2023) examined the effect of judicial legislation in Israel and found, as did many authors in respect of other countries, that the legislation affects the motivation of financially pressed individuals to launch insolvency proceedings and the advisability of their doing so. That is, the legislation enhanced the ease and the leniency of the insolvency proceedings, reflected in an increase in the leniency index and, in turn, the advisability of filing for insolvency. In the analysis that follows, we test the leniency of Israel’s legislation relative to that of other advanced economies. For the purposes of the comparison, we applied one of the latest methods for calculating the Israel Leniency Index—based on data obtained from surveys among multiple experts.⁵ Survey-based methods have the advantage of providing uniform definitions of the indicators that are used to calculate each country’s leniency index. We calculated the index for Israel on the basis of a professional opinion from Israeli lawyers from academia, practice, and the judiciary who are active in the field of personal insolvency. They filled in a questionnaire identical to that on which Walter and Krenchel (2021) based their study. Using the Israeli leniency index, calculated in this document, we compare the values with those of several European countries and the US in order to examine insolvency proceedings in Israel by international comparison, identify legal characteristics unique to Israel, and offer policy recommendations accordingly.

2. Literature review

In recent years, the economic and financial effects of insolvency reforms in many countries have attracted a growing body of literature. These studies, based on analyses of different countries’ legal and regulatory environments, usually calculate an index based on legal characteristics of a range of respects—hereinafter, the Leniency Index. In Section 5, we describe the effects of changes in the leniency of insolvency proceedings on economic and financial activity, as found in the empirical literature, while in this section we review the literature on measuring the relevant legal environment in different countries. White (2007), analyzing the indirect effect of legal changes relating to insolvency on economic activity in several advanced economies⁶, found three indicators that reflect most of the positive impact on economic activity: (1) the right to file for insolvency, (2) the cost of doing so, and (3) the terms for discharge of liabilities by debt restructuring. Heuer (2014) conducted a comparative survey of the basic rules and general norms of insolvency legislation in fifteen advanced economies. He looked into the differences in legislation among the countries in terms of the conditions for eligibility to launch the proceeding, the complexity of the proceeding itself, the method and the possibility of debt forgiveness, and creditors’ involvement in making decisions in the course of the proceeding. Heuer emphasized the effect of the state’s social and cultural

⁴ The Leniency Index represents the judicial environment by means of qualitative data such as dummy variables or by means of quantitative data based on proceedings actually carried out. Among the group of countries that enacted major reforms in this field, the index increased by around 0.22 point on average.

⁵ This stands in contrast to data sampled from existing information systems in different countries for the conduct of proceedings. The leniency index is an accepted index in the research literature that deals with these matters.

⁶ This study looked into insolvency proceedings in the United States, France, Germany, the UK, and Canada in terms of the creation of imbalances between generating insurance value for debtors and punishing debtors for insolvency, which generates insurance value for lenders.

norms on the design of the legislative system in this context. Graziano et al. (2019), reviewing personal-insolvency policies in thirty European countries, presented a full survey (conducted by legal experts in each country) including historical information about the legal system, with the help of fifteen indicators that reflect different characteristics of each country's legal environment. Similarly, Ramsay (2020) examined different countries' legislative policies concerning insolvency proceedings that are aimed at low-income debtors. He found that the traditional conservative approach, which requires debtors to pay a minimum sum to their creditors (a minimum income payments order), is ineffective for numerous low-income debtors.

Andrews and McGowan (2018) probed differences in the design and legislation of insolvency laws between 2010 and 2016 in thirty-six OECD countries including Israel, but their reference to Israel was based on the now-defunct Bankruptcy Ordinance. They based their review on indicators that they calculated with the help of a survey sent to legal experts in the participating countries. The investigators defined four typical components of the legislation: (1) effectiveness of treatment of failed entrepreneurs; (2) mechanisms meant to keep the proceeding from starting; (3) tools for use in debtor rehabilitation; and (4) stigma. They found acute and meaningful differences in legislation among the countries, particularly in the amount of time needed to obtain discharge, actions to prevent insolvency, and the extent of debtor restrictions. The legal changes that the countries carried out within the specified time frame improved policies toward debtors, and the investigators recommended reforms in additional OECD countries. Israel's score in this study was low by the standards of the participating states but an international comparison based on Israel's new law, effective late 2019, would be of interest.

Walter and Krenchel (2021) specified seven components of policy that are reflected in personal-insolvency laws, comprised of thirty-five indicators. Basing themselves on the scores of these indicators for each of the twenty-five countries they examined, they calculated leniency indices for these countries. Thus, they were able to examine the legal processes that affect the set of incentives for overly indebted individuals to file for insolvency. We applied this method to Israel (Section 3) and set up an international comparison of legal characteristics after the new legislation was applied (Section 4).

3. How the Israel Leniency Index was calculated⁷

The Israel Leniency Index was calculated based on the method developed by Walter and Krenchel (2021). Its seven components and a general description of its constituent indicators appear in Table 1.⁸ Our research shows that the seven components cover the main legal characteristics with which one may determine the leniency and effectiveness of mechanisms pertaining to the treatment of debtors who file for insolvency.

⁷ Adv. Noam Herzog of the Israel Ministry of Justice and György Walter of Corvinus University in Budapest helped us with clarifications about the questionnaire and made a major contribution to the study.

⁸ A breakdown of the components, the indicators, and the methods used to determine the score appears in Table 2.2 in Appendix 2.

Table 1**Components of the Leniency Index**

Component	Main characteristics
1. Straight bankruptcy (accessibility, existence)	The very existence of a structured bankruptcy / insolvency proceeding ¹ that allows debtors (under terms established in the law) to obtain forgiveness of their debts and have a fresh start.
2. Eligibility	The value of this component is derived from indicators that represent the extent of the restrictions that prevent debtors from launching the proceeding; these originate in the debtor's income and wealth, criminal record, and similar events in the past (if any).
3. Cost, expensiveness (transaction costs):	The costs imposed on debtors when they instigate the proceeding and in its course. This value is a composite of indicators that represent the level of the court fee for beginning the proceeding, the party to the proceeding who pays (creditor; debtor/state) and compulsory deposit.
4. Complexity	The extent of complexity of the personal insolvency proceeding. The value of this component is a composite of indicators that represent the range of types of creditors in the insolvency case, the range of types of legal and governmental institutions that manage the proceeding, the complexity of professional stewarding of the proceeding, and the availability of legal advice services for debtors.
5. Process	Restrictions and leniencies that apply to debtors in the stages of the proceeding. The value of this component is a composite of indicators that represent the possibility of settling debt by means of an arrangement (without starting the legal proceeding), the adjudicating and determining player in the income payments order and who determines its identity, the extent of the possibility of liquidating all debtor assets for the bankruptcy estate, debtor restrictions during the proceeding, and punitive measures against debtors who fail to comply with the income payments order.
6. Conditions for discharge at debt restructuring	The terms under which a debtor is entitled to full discharge. The value of this component is a composite of indicators that reflect the likelihood of an effective proceeding for the purpose of full forgiveness, the maximum duration in time until forgiveness is given, and the types of debts included in forgiveness.
7. Stigmas of during and after filing	The stigma against debtors who embark on insolvency proceedings. The value of this component depends on indicators that reflect the social and economic pressures that influence individuals in choosing whether or not to launch proceedings—the existence of financial restrictions, public disclosure of information about proceedings under way against the debtor, and the extent to which the debtor may not instigate an identical proceeding in the future.
^{1.} <i>Bankruptcy</i> is the professional term commonly found in the research literature to denote legal proceedings that allow overly indebted persons to settle their debts and have a fresh start. The legislation in Israel, applied in late 2019, repealed the Bankruptcy Ordinance and replaced the term <i>peshitat regel</i> , bankruptcy, with <i>hadlat pera'on</i> , literally “in default on payment,” i.e., insolvency, as the accepted term in Israel, largely because it is considered less stigmatic. In this document, the term <i>insolvency</i> is used as a default in order to standardize the terminology of the comparison	

3.1 Index indicators and components

The index was calculated using a dedicated professional questionnaire developed by Walter and Krenchel (Table 2.2 in Appendix 2). The questionnaire consists of thirty-five numerical indicators that reflect the values of seven components. Each indicator in the questionnaire is ranked in values of 0, 1, and 2, the lowest value denoting a relatively stringent approach to debtors in proceedings. Each component is based on a simple average of the mode in each indicator that reflects it, and the weight of each indicator in the index is determined in two ways. In the first method, every component is weighted identically at 14.3 percent (simple average); in the second, the weighting is predicated on experts' opinions (Table 2.5 in Appendix

2). According to the literature that deals with calculating an index on the basis of qualitative information, it appears that no single method is agreed upon and accepted by all and that the simpler method, which assigns equal weight to all components, is more common in empirical studies (OECD, 2008, La Porta et al., 1998).

3.2 Calculating the Israel Leniency Index

To calculate the index that represents legislative characteristics in Israel, we approached Israeli jurists in academia, practice, and the judiciary who deal with personal insolvency and asked them to fill in the questionnaire based on the Insolvency and Financial Rehabilitation Law, which went into effect in Israel in late 2019.⁹ (Table 2.1 in Appendix 2 gives the experts' particulars and Table 2.3 provides a statistical account of their scoring.) The index and its components are based on the mode of the levels of scoring given in the Israeli experts' opinions. We found that the variance in the experts' scoring is small apart from the indicators included in one component—complexity of the process, for which half if not more of the opinions were scored differently from the mode.

The Israeli leniency index yielded by the equal-weights system is 1.15—in the middle of the range of rankings among a broad sample of countries, in which the median is 1.14. When the index is calculated on the basis of weights determined by experts, Israel's index remains the same but the values of several index components change. Three important indicators that received low scores among the components were highly weighted by the experts:

1. the high cost of filing for insolvency, one of the indicators of the cost-of-proceedings component;
2. the high total minimum amount of debt for applying for insolvency, included in the criteria-of-eligibility component;
3. civil and financial restrictions that apply during the proceeding, included in the component of restrictions and leniencies during the proceeding.

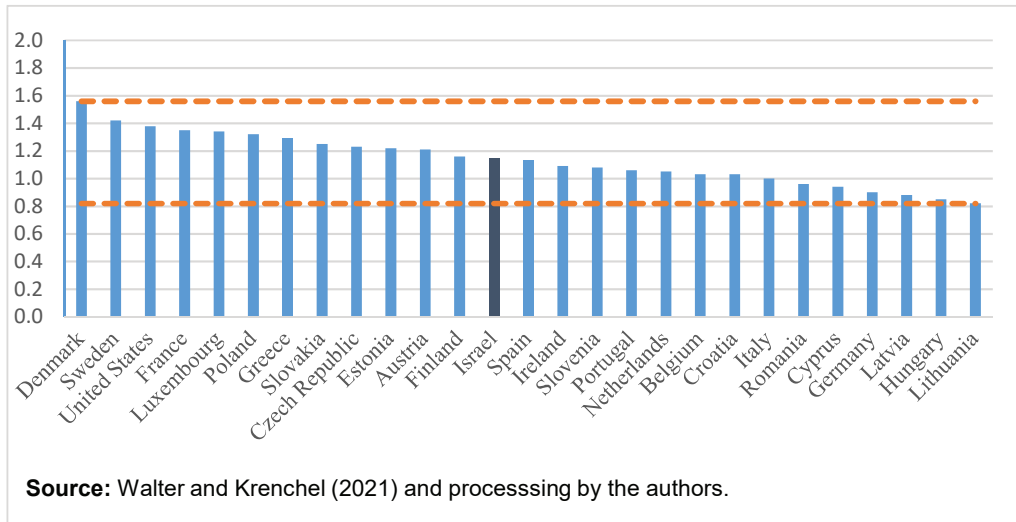
Notably, the low scoring of the first two indicators has a stronger effect on the scores of the components, due to the small number of indicators that these components include. The restrictions-and-lenencies component is comprised of eleven indicators; therefore, each indicator has a smaller impact on the component score.

4. Findings

Israel ranks thirteenth among the twenty-seven countries examined (Figure 1). These findings show that the total characteristics of the legislation in Israel do not tilt inordinately in debtors' favor. The highest indices were found in Denmark, Sweden, and the United States.

⁹ See Insolvency and Financial Rehabilitation Regulations—https://www.nevo.co.il/law_html/law01/501_802.htm?fireglass_rsn=true.

Figure 1
The Leniency Index calculated by the fixed-weights method, and the maximum and minimum indices (broken lines)



In this section, we broaden the analysis and focus on specific components of the leniency index in Israel, ranked specifically in comparison with the countries in the sample, and on their basis examine the unique legal characteristics (if any) of personal insolvency proceedings in Israel.

Straight bankruptcy (accessibility, existence)

The very existence of a structured and direct insolvency proceeding that allows debtors to obtain forgiveness is a basic and important indicator in the index and Israel receives a maximum score in regard to it. Two countries—Greece and the US—earned a maximum score in the full component by offering the possibility of recovering an asset deposited as creditor security in order to obtain full forgiveness, even if the value of the asset is smaller than the total debt. Most European countries, to date, do not offer a direct personal insolvency proceeding; therefore, their score on this component is zero.

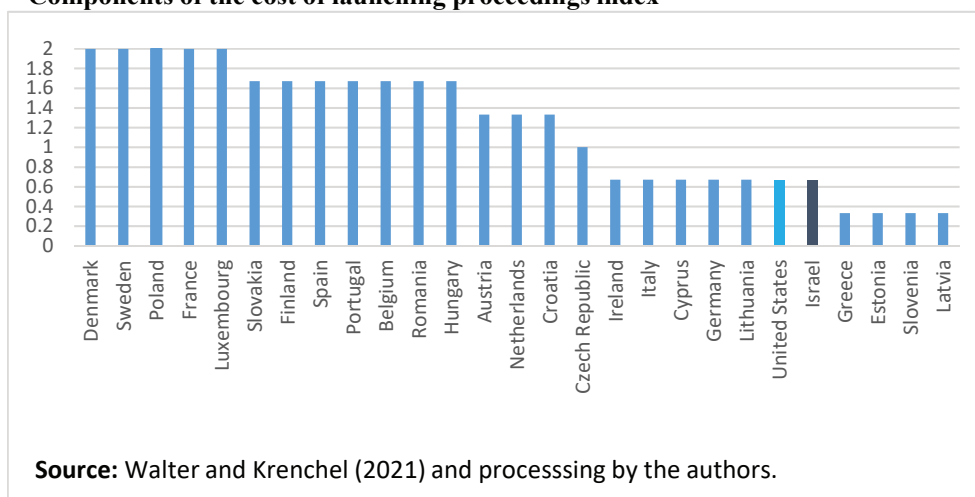
4.1 Eligibility

This component reflects the extent of debtors' eligibility to file for proceedings. Its value is derived from indicators that represent the debtor's level of income, criminal record (if any), size of debt, and social stigma. Israel's score in this indicator is not an outlier relative to the scores of the comparison countries (1.4) but, unlike most countries, Israel has a score of zero in the indicator that represents the minimum level of debt for opening a proceeding. This is because most countries set the minimum at less than €1,000 (or have no minimum at all) whereas Israel's minimum is NIS 53,000 (approximately €13,000). Notably, the legislation allows even debtors with liabilities below the threshold to begin insolvency proceedings if special reasons pertaining to them justify this, including whether proceedings against them under the Tax Ordinance are under way. According to data from the Enforcement and Collection Authority, the proportion of files that are acted upon by force of this power—debt below the statutory minimum—is very small relative to the total number of files and tends to zero.

4.2 Cost, expensiveness (transaction costs)

This component captures the level of financial outlays that debtors face when they begin proceedings and in their course. The value of the component is derived from indicators that represent all costs—lawyers’ fees, compulsory fees, and demand for a deposit by the courts. In Figure 2, we see that Israel is positioned relatively low among the countries in the sample. To elucidate the main reasons for this, we looked into the ranking of the indicators of which this component is composed. We found that the indicator of level of court costs in Israel receives the value of zero (Table 2.3, Appendix 2). Israel ranks low in this indicator due to the total fee required at the outset and in the course of the proceedings (c. NIS 1,400¹⁰). In most countries in the sample, the fee is smaller than €100 (c. NIS 400) and is sometimes fully covered by the state or the creditors. Notably, the Israeli legislation that went into effect in 2019 marks an improvement in this component¹¹ but the total fee in Israel remains high by international comparison. Most debtors who file for insolvency on account of small debts have scant assets and income; therefore, the relatively high fee is an impediment to them in setting the procedure in motion.

Figure 2
Components of the cost of launching proceedings index



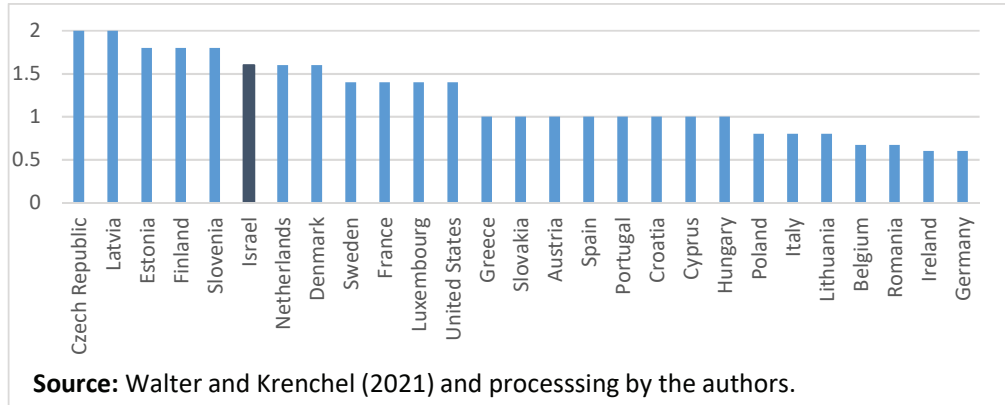
4.3 Complexity

This component is used to estimate the level of procedural complexity of the personal insolvency proceeding. Its constituent indicators are the number of players involved and the number of different proceedings, the extent of complexity of proceedings in the opinion of both professionals and debtors, and the possibility of obtaining public legal aid. Figure 3 shows Israel ranks high among the countries in the sample. This finding indicates that the insolvency law that went into effect in late 2019 engineered a reform in the institutions that manage these proceedings. Notably, the variance among the Israeli experts’ opinions in regard to all indicators included in this component is especially wide.

¹⁰ The applicant pays NIS 900 of the total fee and the remaining NIS 500 is paid from the bankruptcy estate in the course of the proceeding. This leniency went into effect about two years after the legislation was applied. In addition, according to the regulations, debtors who pass the financial tests for entitlement to legal-aid representation pay no fee whatsoever at the beginning of the proceeding; the entire fee is paid from the bankruptcy estate. According to data from the official receiver, some 45 percent of debtors pay no fee at the beginning of the proceeding.

¹¹ Before the legislation, debtors paid more than NIS 2,500 for the proceeding; regulations adopted pursuant to the legislation reduced the sum to NIS 1,600 and a further decrease, to NIS 1,400, occurred in the course of 2021.

Figure 3
Index component that represents the level of proceedings complicatedness and complexity



5. Effect of legislation on economic and financial activity

In this section, we describe the effects of the Israeli legislation on economic activity. Legislation that lightens the severity of the proceedings from the debtor's standpoint makes it more worthwhile for overextended debtors to file for insolvency. This finding has been found significant in many empirical studies and in the aftermath of the insolvency legislation that went into effect in Israel in late 2019 (Ofir, Berzani, & Stein, 2023).¹² According to the World Bank working group, an effective proceeding may, among other things, encourage creditors to desist from collection attempts and incentivize debtors to participate actively in rapid settlement of their debts, possibly boosting total business productivity in the near and medium terms.¹³ Furthermore, an effective proceeding that incentivizes debtors to invoke it in order to break out of the cycle of over-indebtedness may induce debtors to change their economic modus operandi in the labor market and improve their business entrepreneurship in the long-term. The possibility of a fresh start for businesspeople in cases of failure provides a safety net that mitigates fear of being active in this field. The research literature mentions tax revenues as empirical proof of the improvement in productivity because effective insolvency proceedings may incentivize debtors to apply their productive energies, utilize their full future potential in the long term, and, as a result, pay income tax and make social-insurance contributions from their income. Empirical studies dealing with these effects indeed found a strong connection between the leniency of insolvency proceedings for business entrepreneurship and productivity. Lee et al. (2011), examining the connection between enacting systematic insolvency laws that take a gentle approach toward debtors and business entrepreneurship, found that this nexus exists in the long term. In contrast, Walter et al. (2022) report that the gentleness of proceedings begins to affect the share of self-employed from the very time of the legislation, and that a small added effect exists the further one pulls away from that time. Jia (2015) found that insolvency laws that treat debtors gently (such as those in the United States) mitigate concern about the long-term effects of business failure and, in turn, promote business entrepreneurship and, therefore, have an upward effect on the economy's total production and output. In the same study, it was

¹² One of the most meaningful changes that the legislation brought about is a major contraction of the duration of the proceeding, allowing debtors to return to sound economic life and creditors to receive faster repayment. Therefore, it is seen as an effective process at the aggregate level. The transfer of some files to the Enforcement and Collection Authority for treatment was meant to enhance the effectiveness of the proceedings and the possibility of adequate and rapid remedies.

¹³ See the World Bank report on personal insolvency legal systems: <https://documents1.worldbank.org/curated/en/668381468331807627/pdf/771700WP0WB0In00Box377289B00PUBLIC0.pdf>

found that pro-leniency legislation may affect business size: the additional businesses that are established due to legislative lenience are small ones typified by entrepreneurial activity, in which credit risk is relatively high. According to Gropp et al. (1997), reforms that incentivize debtors to file for insolvency prompt lenders to make less credit available to high-risk borrowers and more credit available to low-risk ones.¹⁴ If credit supply to risky customers does contract, Gropp et al. recommend that these customers should consider other ways of financing their activity. One such possibility, typified by high financial risk, is venture-capital funds, which are an even more effective source of funding in risk-reward terms.¹⁵ Efrat (2002) examined insolvency proceedings in various countries and aggregated them into groups on the basis of policies and the ability to give debtors a fresh start. He found that in most countries that offer easy credit, a government safety net—a policy allowing forgiveness and a financial fresh start—is unfurled.

Israel's Insolvency and Financial Rehabilitation Law, 5778-2018, effective late 2019, makes explicit reference to investigating, at the time the insolvency file is opened, the circumstances of how debtors created their debts. This attention in the law has reduced the extent of closure of files on grounds of debtor's bad faith. By inference, the legislative change successfully filtered out undeserving debtors from benefiting from insolvency proceedings even as the country's leniency index rose perceptibly (Ofir, Berzani, & Stein (2023).

As not enough time has passed since the Israeli law was applied, the effect of the legislation on economic and financial variables cannot yet be detected; this will be possible only in another few years.

6. Conclusion and policy recommendations

Availing ourselves of the leniency index that was calculated for this study, we compared the values of the Israeli index with those of several European countries and the United States, and found several legal characteristics specific to Israel. The legislation in Israel, which went into effect in late 2019 and facilitated personal-insolvency proceedings, positioned Israel in the middle of the leniency index rankings by international comparison. The low complexity of insolvency proceedings in Israel (a change that was an important part of the reform) gives Israel a high score in this respect. However, initiating proceedings in Israel is costly by the standards of the countries investigated. These costs may exacerbate the hardships of debtors who are in financial distress to begin with and may create an obstacle to the onset of a proceeding that may, once completed, bring about the hoped-for financial rehabilitation. Therefore, we propose that a decrease in the total cost of the proceeding be considered, as opposed to mere deferral of payment from the bankruptcy estate after the proceeding begins. This should apply in particular to low-asset and low-income debtors, whose debts are typically small. We also found that the minimum debt required to begin insolvency proceedings in Israel is very high by the standards of the countries examined. This may crimp debtors' eligibility for insolvency proceedings and, in turn, may make it harder to extract small sums from debtors on their road to a fresh start. We therefore recommend considering a decrease in the minimum level of debt or an expansion of the criteria that establish eligibility for insolvency proceedings among low-asset and low-income debtors.

¹⁴ Gropp et al. looked into the connection between reforms in insolvency laws that bring about an increase in forgiveness and credit supply.

¹⁵ See Chapter 4 in the Bank of Israel Annual Report for 2018, <https://boi.org.il/media/nx2pqxpd/chap-4.pdf>

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Appendix 1. Settlement of personal-insolvency proceedings in law: European countries and Israel

Country	Year of legislation
Denmark	1984
UK	1986
France	1989
Germany	1994
Sweden, Finland, Norway	1994
Austria	1995
Belgium	1998
Netherlands	1999
Ireland	2012
Portugal	2004
Slovakia	2006
Slovenia and Czech Republic	2008
Poland	2009
Greece	2010
Italy	2012
Spain	2013
Hungary and Croatia	2015
Romania	2018
Israel	2019

Appendix 2. Leniency index questionnaire, Israel's index scores, and breakdown of experts' opinions

The tables in this Appendix present Walter and Krenchel's (2021) questionnaire, the indicator and component scores of the leniency index, and a statistical breakdown of the Israeli jurists' answers that we used to calculate the Israel leniency index.

Table 2.1			
The twenty experts who tendered opinions about the questionnaire and their areas of activity:			
	Name	Area of professional activity	Institutional affiliation
1.	Professor David Hahn	Academia	Bar-Ilan University
2.	Dr. Omer Kimhi	Academia	University of Haifa
3.	Dr. Neta Nadiv	Academia	Reichman University
4.	Professor Ron Harris	Academia	Tel Aviv University
5.	Adv. Oren Harel	Private sector	
6.	Adv. Assaf Degani	Private sector	
7.	Adv. Itai Hess	Private sector	
8.	Adv. Lior Ben-Yosef Levi	Private sector	
9.	Adv. Haim Sachs	Public sector	Official Receiver
10.	Dr. Roy Stein and Yehonatan Berzani	Public sector	Bank of Israel
11–20	Judges, coordinated by Dr. Gali Aviv and Adv. Hila Buskila	Public sector	Judicial authority

Table 2.2

Questionnaire used to calculate the Israeli leniency index

Components of index [no. of indicators]	Indicators	Indicator scoring method
Straight bankruptcy option [2]	If straight bankruptcy (quick liquidation ends with discharge), liquidation exists	<ul style="list-style-type: none"> • Yes—2 • Simplified bankruptcy for entrepreneurs, or bankruptcy (and discharge) only for persons approved by court based on their status, wealth, poverty, etc.—1 • No - 0
	Secured asset – return and walk away option	<ul style="list-style-type: none"> • There is a walk away possibility (giving the asset but no further claims) —2 • No such walk away possibility 0
Eligibility criteria [5]	Entitled to participate (natural person, entrepreneurs)	<ul style="list-style-type: none"> • There is a unified, complex legal process for both entrepreneurial/business loans of private persons and for consumer debts, obligations —2 • Some processes are open for private person (consumer) and other for entrepreneurial obligations, business activity, but not in a complex, unified form —1 • Process is only for personal/consumer loans —0
	Income, wealth (income) constraint on minimum amount of debt to file	<ul style="list-style-type: none"> • A debt to wealth/income criteria as a restriction is defined to be eligible: No—2 Yes, for certain processes—1 Yes, for all processes—0
	Exclusion criteria of criminal record	<ul style="list-style-type: none"> • Criminal offence conviction is not obstacle for eligibility —2 • Criminal offences conviction of financial/bankruptcy crimes in connection with taking up/handling debt, bankruptcy, etc. is an obstacle —1 • Other criminal offences and acts (not just financial but other civic / or just suspicion /or being unemployed and not accepting job/ or gross negligence) is an obstacle —0
	Minimum amount of debt	<ul style="list-style-type: none"> • is equal/less than 1000 euro, or no minimum —2 • 100-5000 euro, or there are thresholds exist for separating different processes —1 • More than 5000 euro —0
	Stigmas for filing	<ul style="list-style-type: none"> • If filing for a similar process in the past is an excluding condition for filing again: less than 5 years ago or no such condition —2 less than 10 years but more/equal to 5 years —1 more, equal than 10 years —0
Cost of proceeding [3]	Court fee	<ul style="list-style-type: none"> • fee is paid by creditor, state, or possibility to get it free —2 • fees is equal or less than 100 euro—1 • fee is more than 100 euro or proportional —0
	Who bears the costs of the procedure	<ul style="list-style-type: none"> • Cost is dominantly beard by the creditor or state —2 • Cost is beard together by the creditor and debtor —1 • Cost is dominantly beard by the debtor —0
	Deposit for the costs	<ul style="list-style-type: none"> • No such deposit is required or can be exempted —2 • Deposit exist but likely to be less than 500—1 • Deposit exist but likely to be more than 500 euro —0

Table 2.2 Questionnaire used to calculate the Israeli leniency index		
Components of index [no. of indicators]	Indicators	Indicator scoring method
Complexity (steps, phases, measures of the process) [5]	Who, how many office holders conducts the process (bankruptcy office, committee, court, municipality)	<ul style="list-style-type: none"> Only one office/ office holder conducts all process (+court) —2 2 types of offices/ office holders could conduct the different types of procedures -1 More than 2 types of offices / office holders conduct the different types of procedures —0
	Number of regimes named (routes like liquidation, debt settlement, restructuring proceeding, etc.)	<ul style="list-style-type: none"> There are less than 3 different procedure-types are named —2 There are 3 different procedure-types are named —1 There are more than 3 different procedure-types are in legislation —0
	Complexity of the procedure for professionals (expert opinion)	<ul style="list-style-type: none"> Less complex and relatively known —2 Complex—1 Highly complex and lack of knowledge from professionals (economists, layers) side —0
	Complexity for applicants (the workflow to start, to apply, consider eligibility criteria, etc.)	<ul style="list-style-type: none"> Easy process how to start, to file —2 Complex to start, to file —1 Highly complex and lack of knowledge from debtor side —0
	Debt counselling service	<ul style="list-style-type: none"> Counselling service is part of the official state system (even if officially financed nonprofit institution) and is free of charge —2 Counselling service is part of the official state system (even if they are officially financed non profit institution) but not free of charge —1 Counselling service does not exist or just in the private and/or nonprofit (not financed by state) area, or state provides only a simple homepage —0
Process of repayment [11]	Pre-action stage, amicable settlement	<ul style="list-style-type: none"> No out of court process is named in the official process —2 It is voluntary, but part of the system - 1 It is compulsory requirement to go first before go to debt settlement —0
	Initiator (who is entitled to initiate procedure, creditor, debtor, public entity, combinations etc.)	<ul style="list-style-type: none"> The debtor can initiate all the processes —1 The creditor and the debtor can initiate the processes or the creditors some of the processes —1 Only the creditor can initiate the process —0
	Are all creditors included	<ul style="list-style-type: none"> All credit/obligations types (secured, unsecured, utility, not just bank loans, credit cards, etc.) are included —2 Some loan types (like utility obligations, unsecured loans, student loan) is/are not included —1 Only secured claims are included—0
	Repayment/debt relief plan	<ul style="list-style-type: none"> Repayment plan is drafted by the debtor first —2 Repayment plan is drafted by office/other mandated —1 Repayment plan is drafted by the creditor —0

Table 2.2

Questionnaire used to calculate the Israeli leniency index

Components of index [no. of indicators]	Indicators	Indicator scoring method
	Degree of disability of the debtor during the process	<p>This relates to restrictions on the debtor's civil and economic rights related to bankruptcy</p> <ul style="list-style-type: none"> • if no restrictions are related (other than disposal of property, revenue)—2 • for also for economic disabilities (i.e. restrictions on obtaining credit, being involved in the management of a company)—1 • interference with mail and/or travel (i.e. prohibition on travel without consent, mail opened by trustee) civic disabilities (i.e. loss of right to vote, hold elected office, membership of professional groups) —0
	Violating the duties (debtor) results possible penalties	<ul style="list-style-type: none"> • No such penalties (maximum prohibition from doing business) —2 • Fine—1 • Fine and other penalties (detention, other prohibition)—0
	Possible measure, decision of during the repayment, debt settlement processes (due to a sudden event, the debtor is hit by an event, etc., the court can decide to relief partly from debt)	<ul style="list-style-type: none"> • There is a possible measure in the restructuring process: • partial debt reduction, or release – 2 • no partial reduction but measure to ease the payment-burden (suspending payment, suspend sale of assets, aid, or any other measures) – 1 • no such measure is possible – 0
	Decision mechanism (majority of creditors, court, etc.)	<ul style="list-style-type: none"> • The court can make alone an obligatory decision at approving the plan or at the end (like in a debt relief plan) – 2 • Majority of creditors and / or claim is necessary for approval – 1 • Majority of creditor is not enough and/or decision-making is more complex or not binding for everybody – 0
	Exemption income (value, magnitude, strictness of exemptions during process; properties or future income a debtor can prevent creditors from recovering)	<p>This relates to prebankruptcy assets which are exempted from the bankrupt estate and so retained by the debtor.</p> <ul style="list-style-type: none"> • if exemptions are more generous than listed below. – 2 • if exemptions of assets from the bankruptcy estate cover only personal items, tools of trade, etc. – 1 • if exemptions are 'negative', i.e. spousal common property can be pulled into the estate – 0
	Asset sale	<ul style="list-style-type: none"> • Asset could be sold only with the consent of the debtor, or the debtor can sell it with the approval of the officer – 2 • In at least one process, finally the asset could be sold by the officer/court alone (by other process with the approval of the creditor)— 1 • Asset (in all types of process) could be sold by the officer (trustee, etc.) only with the approval of the creditor – 0
	Consequences of commencement of the procedure	<ul style="list-style-type: none"> • All actions (collection, other insolvency) against the debtor are suspended – 2 • Some actions (some auctions commenced prior bankruptcy, secured obligations, accrual or interest, penalties) go on – 1 • Nothing is suspended concerning collection - 0

Table 2.2 Questionnaire used to calculate the Israeli leniency index		
Components of index [no. of indicators]	Indicators	Indicator scoring method
Conditions for discharge [5]	Discharge is possible (in at least one type of the processes)	Discharge is possible in the legislation: <ul style="list-style-type: none"> • Yes, without any revoking possibility - 2 • Yes, but could be altered, revoked for a while, in case of hiding assets, did against pari passu, etc. - 1 • No, discharge is not possible, all obligations must be paid - 0
	Length of necessary repayment period, settlement period	In debt repayment, relief plan based on the legislation <ul style="list-style-type: none"> • the length could of repayment could be maximum or less than 3 years - 2 • repayment plans based on loan is more than 3 less than 7 years - 1 • could last more/equal than 7 years/no limit is defined, or no discharge - 0
	Level of repayment benchmark, minimum quota for closing (as a percentage of debt)	<ul style="list-style-type: none"> • No minimum quota relative to debt is prescribed in the law - 2 • There is a minimum quota, but under or equal 25% of the debt appear in at least one of the process types - 1 • Minimum quotas are typically above 25%, or no discharge - 0
	Automatic discharge conditional of court decision	<ul style="list-style-type: none"> • Discharge is automatic if conditions are fulfilled (maximum formal decision is needed) - 2 • Discharge is always based on court decision - 1 • No discharge - 0
	Discharge is valid for all credits, claims depending on lodged in the process	<ul style="list-style-type: none"> • Yes, for all claims even if it was not lodged in the course of proceeding - 2 • Only for claims lodged in the course of proceeding - 1 • No discharge - 0
Stigmas [4]	Other provisions against the debtor on financial market (loan, banking, etc.)	<ul style="list-style-type: none"> • No formal limitation in accessing debt market - 2 • There is a formal limitation about further credit access for less/equal to 5 years - 1 • There is a formal limitation about further credit access (black list) after process is closed for more than 5 years - 0
	Publicity stigmas (appearance in public registries, announcements, etc.)	<ul style="list-style-type: none"> • No such registration exist - 2 • Information about the procedure not publicly available / or limited, difficult access - 1 • Information about the procedure is publicly available (in registration, etc.) - 0
	Limit on further access to similar discharge later on	<ul style="list-style-type: none"> • No such limit - 2 • There is a limit - for less or equal than 5 years - 1 • There is a limit - for more than 5 years or one shot - 0
	Names, calling of the procedures, laws	Name of the law: <ul style="list-style-type: none"> • Settlement/Restructuring or euphemistic phrase - 2 • Insolvency - 1 • Bankruptcy - 0

Table 2.3

Breakdown of scoring of indicators in accordance with experts' opinions

Components of index [no. of indicators]	Indicators	Avg. score	Mode	Experts deviating from mode (pct.)
Straight bankruptcy option [2]	Is straight bankruptcy possible?	1.9	2	15
	Secured asset – return and walk away option	0.6	0	30
Eligibility criteria [5]	Entitled to participate (natural person, entrepreneurs)	2.0	2	0
	Income, wealth (income) constraint on minimum amount of debt to file	1.2	1	25
	Exclusion criteria of criminal record	2.0	2	5
	Minimum amount of debt	0.1	0	5
	Stigmas for filing	1.9	2	10
Cost of proceeding [3]	Court fee	0.0	0	0
	Who bears the costs of the procedure	0.3	0	16
	Deposit for the costs	1.9	2	5
Complexity (steps, phases, measures of the process) [5]	Who, how many office holders conducts the process (bankruptcy office, committee, court, municipality)	0.8	0	53
	Number of regimes named (routes like liquidation, debt settlement, restructuring proceeding, etc.)	1.7	2	20
	Complexity of the procedure for professionals (expert opinion)	1.4	2	50
	Complexity of the procedure for professionals (expert opinion)	1.3	2	50
	Debt counselling service	1.6	2	21
Process of repayment [11]	Pre-action stage, amicable settlement	1.5	2	40
	Initiator (who is entitled to initiate procedure, creditor, debtor, public entity, combinations etc.)	1.0	1	0
	Are all creditors included	2.0	2	0
	Repayment/debt relief plan	1.1	1	5
	Degree of disability of the debtor during the process	0.1	0	5
	Violating the duties (debtor) results possible penalties	0.0	0	0

Table 2.3 Breakdown of scoring of indicators in accordance with experts' opinions				
Components of index [no. of indicators]	Indicators	Avg. score	Mode	Experts deviating from mode (pct.)
	Possible measure, decision of during the repayment, debt settlement processes (due to a sudden event, the debtor is hit by an event, etc., the court can decide to relief partly from debt)	1.8	2	11
	Decision mechanism (majority of creditors, court, etc.)	1.9	2	5
	Exemption income (value, magnitude, strictness of exemptions during process; properties or future income a debtor can prevent creditors from recovering)	1.3	1	35
	Asset sale	1.0	1	0
	Consequences of commencement of the procedure	1.3	1	30
Conditions for discharge [5]	Discharge is possible (in at least one type of the processes)	1.0	1	0
	Length of necessary repayment period, settlement period	1.3	1	40
	Level of repayment benchmark, minimum quota for closing (as a percentage of debt)	2.0	2	0
	Automatic discharge conditional of court decision	1.4	1	35
	Discharge is valid for all credits, claims depending on lodged in the process	1.1	1	10
Stigmas [4]	Other provisions against the debtor on financial market (loan, banking, etc.)	1.0	1	0
	Publicity stigmas (appearance in public registries, announcements, etc.)	0.0	0	0
	Limit on further access to similar discharge later on	2.0	2	5
	Names, calling of the procedures, laws	1.0	1	0

Table 2.4 Average score of Israel leniency index based on mode of indicators	
Components of index [no. of indicators]	Score
Straight bankruptcy (accessibility, existence) [2]	1.0
Eligibility [5]	1.4
Cost, expensiveness (transaction costs) [3]	0.7
Complexity [5]	1.6
Process [11]	1.2
Conditions for discharge at debt restructuring [5]	1.2
Stigmas of during and after filing [4]	1.0

Table 2.5 Weights of index components in accordance with experts' opinion ¹⁶	
Components of index [no. of indicators]	Weight
Existence of structured insolvency proceeding [2]	0.12
Eligibility criteria [5]	0.17
Cost of proceeding [3]	0.16
Complexity of proceeding [5]	0.12
Restrictions and leniencies during proceeding [11]	0.14
Conditions for forgiveness [5]	0.19
Social stigma [4]	0.11

¹⁶ To determine the weights of the seven components of the index, Walter and Krenchel (2021) availed themselves of sixteen experts who had professional / academic backgrounds in this field in various countries.