

# A legal analysis of insolvency provisions in Jordanian legislation and their comparative alignment with regional frameworks

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## Abstract

This study examines the operation of insolvency under Jordanian Law No. 21 of 2018 and analyzes its implications for both debtors and creditors experiencing financial distress. It evaluates the procedural mechanisms for initiating insolvency, emphasizing the law's shift toward structured processes that balance financial rehabilitation with legal accountability. Particular attention is given to reorganization as a viable alternative to liquidation, enabling financially distressed yet economically feasible enterprises to restructure debts and maintain operations rather than face dissolution. The research adopts a descriptive-analytical and comparative methodology, combining legal text analysis with a cross-jurisdictional review of insolvency frameworks in Egypt and the United Arab Emirates to identify best regional practices. Primary sources include statutory provisions and judicial decisions, while secondary sources consist of legal commentaries, scholarly studies, and relevant economic reports. The study further investigates the role, rights, and limitations of creditors throughout insolvency proceedings and assesses the broader economic consequences of insolvency, particularly during periods of financial instability and constrained access to credit. The findings underscore the need for continued legal reforms to strengthen reorganization tools, streamline liquidation procedures, and enhance fairness between debtors and creditors. Ultimately, the study concludes that advancing Jordan's insolvency regime contributes to greater financial stability, supports distressed businesses, and protects stakeholder interests within an increasingly dynamic economic environment.

**Keywords:** Insolvency, Comparative law, Legal frameworks, Creditors' rights, Restructuring

## 1.1 Introduction

The private sector constitutes a fundamental pillar of Jordan's national economy, with Micro-, Small-, And Medium-Sized Enterprises (MSMEs) representing approximately 99.5% of total economic establishments and employing nearly half of the national workforce. Despite their economic significance, MSMEs in Jordan continue to face persistent structural challenges, including limited access to finance, high operational costs, and a complex regulatory environment. Access to credit remains particularly constrained, as these enterprises receive only a small share of total banking facilities compared to regional and emerging economies. As a result, many financially distressed businesses resort to informal funding channels, increasing their exposure to financial risk and raising the likelihood of insolvency or liquidation. In recent years, the Central Bank of Jordan and relevant governmental institutions have recognized the need to modernize the legal and financial

frameworks governing business failure.

A key component of these efforts is the development of an effective insolvency system that supports financial inclusion, enhances creditor confidence, and provides viable enterprises with opportunities for restructuring rather than forced liquidation.

## 1.2 Problem statement and research gap

Before the enactment of Insolvency Law No. 21 of 2018, legal provisions relating to insolvency were fragmented across multiple legislations, offering limited tools for reorganization and insufficient protection for both debtors and creditors. Although insolvency reform has attracted increasing national attention, academic research on the practical and legal implications of the Jordanian insolvency framework remains limited. Existing studies rarely conduct a comprehensive comparative assessment between Jordan and regional jurisdictions such as Egypt and the United Arab Emirates, despite their shared efforts to modernize insolvency systems.

Moreover, the connection between insolvency regulation, access to finance, and MSME sustainability has not been adequately examined in the current literature.

### 1.3 Aim and contribution of the study

This study aims to provide an in-depth legal analysis of Jordan's Insolvency Law No. 21 of 2018 and evaluate its alignment with comparable legislative frameworks in Egypt and the United Arab Emirates. By examining substantive rules, procedural mechanisms, and creditor-debtor protections, the study seeks to assess the effectiveness of Jordan's approach in promoting financial rehabilitation and preventing unnecessary liquidation. The article contributes to the literature by offering a systematic regional comparison, identifying key strengths and gaps within the Jordanian system, and highlighting areas for potential legislative improvement to enhance business continuity, creditor confidence, and overall economic stability.

## 2. Literature Review

### 2.1 Previous studies on Jordanian insolvency law

Al-Hadidi (2022) provides one of the most comprehensive examinations of Jordan's Insolvency Law No. 21 of 2018, focusing on the underlying philosophy and the policy objectives it seeks to achieve. The study finds that the primary purpose of the law is to preserve viable economic activity by enabling distressed enterprises to continue operating rather than being pushed toward liquidation. Through this approach, the law supports broader national goals, including maintaining economic balance, sustaining employment, and safeguarding the rights of creditors across different categories.

Al-Hadidi also distinguishes between the modern concept of insolvency and the traditional bankruptcy regime previously regulated under the Jordanian Commercial Law. His analysis highlights significant structural shortcomings in the former bankruptcy framework and justifies the shift toward contemporary insolvency principles to meet economic needs and align with international standards.

### 2.2 Comparative insights from Egyptian legislation

In a related context, Ibrahim (2024) examines the protective settlement and restructuring mechanisms introduced by the Egyptian legislator following Law No. 11 of 2021. The study aims to clarify how these amendments enhance procedural guarantees for both debtors and creditors facing financial distress. Although Egypt retains the concept of protective settlement, unlike Jordan, which abolished it under its 2018 insolvency framework, both jurisdictions pursue similar objectives: facilitating the reorganization of financially troubled companies and preventing premature liquidation. Ibrahim's analysis reveals key differences in procedural design, creditor participation, and restructuring mechanisms, reflecting distinct legislative philosophies despite shared economic goals.

### 2.3 Critical analysis of the existing literature

The reviewed studies contribute valuable insights into the evolution of insolvency regulation in Jordan and the broader region. However, existing scholarship remains largely descriptive and does not provide a comprehensive analytical comparison between Jordan's insolvency system and parallel frameworks in Egypt and the United Arab Emirates. Moreover, the literature seldom evaluates the practical implications of these laws on access to finance, creditor confidence, or the survival of MSMEs—despite their significant role in national economies. The current study seeks to address these gaps by situating Jordan's insolvency framework within a wider regional context and offering a more integrated, comparative legal assessment.

## 3. Methodology

### 3.1 Research approach and methods

This study adopts a descriptive, analytical, and comparative legal methodology designed to assess the effectiveness of Jordan's insolvency framework and its alignment with regional legislative models. The research integrates the examination of statutory provisions and judicial decisions under Jordanian Insolvency Law No. 21 of 2018 with a structured comparative analysis of corresponding frameworks

in Egypt and the United Arab Emirates.

The methodology is implemented through three main stages:

#### Legal text analysis

A detailed review of the substantive and procedural provisions of Jordan's Insolvency Law, including definitions, application requirements, restructuring mechanisms, and procedural safeguards provided to debtors and creditors.

#### Comparative approach

A systematic comparison of the Jordanian insolvency regime with Egyptian and Emirati legislation to identify areas of convergence and divergence, and to highlight regional best practices in restructuring, creditor protection, and business rehabilitation.

#### Analytical synthesis

An evaluative assessment of the practical implications of these legal frameworks, focusing on their effectiveness in protecting creditors' rights, ensuring equitable treatment of debtors, enhancing access to finance, and promoting economic stability. This multi-layered approach provides a comprehensive understanding of insolvency regulation in Jordan while situating the analysis within a broader regional context.

### 3.2 Data and legal sources

The study relies on primary and secondary legal sources rather than quantitative datasets. Primary sources include Insolvency Law No. 21 of 2018, relevant provisions of the Jordanian Commercial Law, and corresponding Egyptian and Emirati legislative instruments governing restructuring, settlement, and insolvency. Secondary sources consist of academic commentaries, peer-reviewed legal journals, and comparative studies addressing insolvency, reorganization, and creditor rights. These materials form the analytical basis for evaluating legislative effectiveness and developing the comparative insights presented in the subsequent sections.

## 4. Research Results

### 4.1 Definition and Concept of Insolvency in Jordanian Law

Jordanian Insolvency Law No. 21 of 2018 introduced a modern framework that replaced outdated bankruptcy provisions and adopted a dual standard of cash-flow and balance-sheet insolvency. The shift in terminology from "bankruptcy" to "insolvency" reflects a legislative intention to reduce stigma and promote rehabilitative, rather than punitive, approaches. This aligns Jordan with international models such as the UNCITRAL Legislative Guide (2005).

### 4.3 Conditions and procedures for filing insolvency

Article 10 of the Jordanian law allows insolvency declarations in cases of actual or imminent inability to pay. Applications may be filed by the debtor, creditor, or Companies Controller, with required documentation including financial statements, lists of creditors, and causes of insolvency. Egyptian and Emirati laws impose quantitative thresholds: the UAE requires minimum debt values and procedural deposits, while Egypt restricts eligibility to larger companies with established operational histories. Jordan's simpler approach enables broader access but risks inconsistent judicial interpretations due to the absence of fixed thresholds.

### 4.4 Comparative aspects with Egyptian and emirate laws

The comparative analysis reveals distinct legislative philosophies:

- **Jordan** emphasizes rehabilitation and judicially supervised restructuring.
- **Egypt** relies on pre-insolvency negotiated settlements through protective reconciliation.
- **The UAE** integrates preventive settlement and restructuring under a unified statute with advanced institutional mechanisms. Jordan aligns most closely with the UAE's rehabilitative approach but lacks specialized courts and dedicated insolvency administrators.

## 4.5 Creditors' rights and reorganization mechanisms

The Jordanian system seeks to balance debtor-creditor interests through creditor committees and court-supervised restructuring plans. However, delays and limited awareness among SMEs undermine these mechanisms. Egypt and the UAE provide more formalized creditor participation, particularly the UAE, where secured creditors have priority and restructuring plans require approval by value. Jordan's framework promotes fairness but requires procedural refinement and institutional strengthening.

## Discussions

The findings indicate that Jordan's 2018 insolvency framework represents a major legislative shift from liquidation-oriented bankruptcy to a modern, rehabilitative model. This reflects global trends highlighted by the UNCITRAL Guide and aims to support viable businesses while maintaining creditor confidence. Jordan's broad eligibility provisions support SMEs, a sector essential to economic stability, yet the absence of quantitative thresholds creates uncertainty in judicial application. Comparative insights show that Egypt focuses on negotiated preventive settlements, while the UAE adopts an advanced hybrid system with clearer institutional structures (Abbas et al., 2024; Jam et al., 2018).

Jordan stands between these two: modern in philosophy but still developing in institutional capacity. The discussion underscores that strengthening creditor rights, enhancing judicial efficiency, and improving restructuring mechanisms would significantly improve the effectiveness of Jordan's insolvency regime. Incorporating UAE-style instruments—such as specialized administrators and clearer procedural timelines—may increase predictability and encourage confidence among lenders and investors.

## Conclusions and Recommendations

### 6.1 Key findings

1. **Modernization of Jordanian legislation:**

Law No. 21 of 2018 represents a progressive departure from punitive bankruptcy, adopting internationally aligned insolvency standards that emphasize rehabilitation.

2. **Inclusive legal scope:** The expansion of coverage to professionals and small enterprises supports financial stability and aligns legislative intent with the economic role of SMEs.
3. **Procedural flexibility:** Jordan simplifies access to insolvency procedures but lacks quantitative eligibility thresholds, potentially leading to inconsistent judicial interpretations.
4. **Comparative insights:** Jordan's model resembles the UAE's rehabilitative approach but lacks advanced institutional structures; Egypt retains a protective settlement with narrower eligibility.
5. **Balancing stakeholder rights:** The Jordanian system establishes mechanisms for creditor participation, yet suffers from administrative delays and the absence of specialized courts.

### 6.2 Policy and legal implications

Enhancing insolvency regulation requires improving institutional capacity through specialized insolvency judges, electronic case management, and clearer procedural timelines. Adoption of selected Emirati features, such as accredited insolvency administrators, would strengthen restructuring outcomes and increase creditor confidence.

### 6.3 Conclusion

Jordan's insolvency framework reflects a forward-looking legislative philosophy that prioritizes business continuity and equitable treatment of stakeholders. Despite existing structural and procedural limitations, the law provides a solid foundation for financial rehabilitation. Building on comparative lessons from Egypt and the UAE, Jordan can further strengthen its insolvency system by integrating preventive restructuring tools, digital processes, and specialized judicial oversight—contributing to greater economic resilience, investment attractiveness, and sustainable growth.

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