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(Article begins on next page)

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## **Bankruptcy and insolvency laws around Europe (1850-2015): institutional change and institutional features**

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# Bankruptcy laws around Europe (1850-2015): Institutional change and institutional features

## Introduction

“In the beginning there were markets” – Oliver Williamson argued<sup>1</sup> - and the markets’ function *par excellence* is to select amongst firms, promoting worthy concerns and eliminating the unviable ones. Timelessly, and without friction and costs, an efficient selection among businesses and entrepreneurs is made, and economies which let the markets operate unfettered are allowed to prosper. However, for those who get their hands dirty digging into the reality of the history of business, a very different story emerges. The market’s function to select viable firms is, at least, mediated by, and, at most, fully replaced by a wide set of institutional settings. Amongst these institutions, the main player is bankruptcy (and insolvency) law.<sup>2</sup> If we consider, as is widely recognised, that these institutions are a key mechanism of capitalist economies, it is perhaps not surprising to discover the influence they have had on fundamental aspects of business organisation and functioning. Historically, the choices of forms of governance,<sup>3</sup> attitudes towards risk-taking across class and gender,<sup>4</sup> the development of credit markets,<sup>5</sup> the size and structure of firms in

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<sup>1</sup> Williamson, *The Economic Institutions*, 87.

<sup>2</sup> In the non-technical language, and sometimes in the academic literature, bankruptcy and insolvency tend to be used as synonyms. In fact, the two terms can have different meanings: firstly, while the former indicates a legal status, the latter refers more to an economic condition (the inability to face debt), which might not necessarily lead to formal bankruptcy (see: Telfer, *Ruin and Redemption*, 5). Secondly, as discussed in the paper, in countries where traders are separated from non-traders, the former are subject to bankruptcy law, the latter to insolvency (Brown, “Comparative legislations”, 251). Finally, in Anglo-Saxon legal regimes, a technical distinction is made between incorporated businesses (subject to insolvency) and individuals, sole ownerships and partnerships which are dealt with via bankruptcy law. In this paper we use the term “bankruptcy”, although in the case of England and Ireland, however, we also analyse insolvency legislation applying to incorporated business. We do not analyse insolvency as the set of legal devices dealing with non-traders or other legal entities not subject to bankruptcy law.

<sup>3</sup> Lamoreaux and Rosenthal, “Legal regime and contractual flexibility”.

<sup>4</sup> Aston and Di Martino, “Risk and success”; Di Martino, “Legal institutions”.

<sup>5</sup> Musacchio, “Can Civil Law Countries Get Good Institutions?”; Freeman, Pearson, and Taylor, “Different and Better”; Fohlin, “Does Civil Law Tradition”.

1  
2 various nations,<sup>6</sup> all have been shaped by legal institutions, in particular the ones dealing with  
3  
4 failure and re-starting.  
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7 While the influence of these institutional settings on business organisation has been (and still  
8  
9 is) the subject of wide investigation in economic and business history, relatively little attention has  
10  
11 been paid to the much broader context: the historical reconstruction of the features of bankruptcy  
12  
13 laws over time and space. So, currently, we are unable to readily compare the fate the same firm  
14  
15 would have faced in Britain had it been declared bankrupted in 1850 as opposed to 1950. Similarly,  
16  
17 we do not know what would have happened to a firm in, say, Sweden in the 1970s, compared to  
18  
19 Belgium or Germany in the same decade.  
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22  
23 Just as importantly, little is also known about the patterns of change of these laws over time.  
24  
25 The lack of research on this topic is perhaps not surprising given the number of considerable  
26  
27 methodological issues involved: the definition of the time-span, the number of countries to be  
28  
29 covered, the variables to be included, the fact that sources are dispersed, fragmented, and written in  
30  
31 a number of different languages. Furthermore, the assumption that institutions naturally converge  
32  
33 towards the most effective ones, has perhaps led many to believe that a reconstruction of  
34  
35 bankruptcy and insolvency laws is essentially redundant. A few facts should suffice to dispel these  
36  
37 doubts. Around the turn of the nineteenth century, treating a case of bankruptcy took, on average,  
38  
39 about a year in England and Germany, a few more months in France, and about three times as long  
40  
41 in Italy. In England about forty per cent of firms would have used a pre-bankruptcy arrangement,  
42  
43 about one third in France, and less than five per cent in Italy, while in Germany such deals were  
44  
45 simply not available as part of bankruptcy procedures.<sup>7</sup> Yet, in 2016, more than a century later, and  
46  
47 after the 2007-08 financial crisis had severely tested the functioning of insolvency regulations, it  
48  
49 appeared that little had changed, with the European Commission noting that across the EU bloc  
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58 <sup>6</sup> Di Martino and Vasta, "Companies' insolvency".

59 <sup>7</sup> Di Martino and Hautcoeur, "The Functioning of Bankruptcy Law".  
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2 ‘despite reforms in the area of insolvency, rules still diverge and remain inefficient’<sup>8</sup> in a number of  
3  
4 countries.  
5

6  
7 The absence of such research also reflects a significant gap in our understanding more  
8  
9 generally of long-term institutional development in a comparative context, with only a handful  
10  
11 studies on this topic despite the longstanding acknowledgement of their value to a range of  
12  
13 disciplines. So whilst bankruptcy and insolvency laws are key “rules of the game”, the issue of  
14  
15 these institutions and patterns of change, so central to business history, has yet to be tackled, and the  
16  
17 fundamental questions about the nature of bankruptcy laws in a comparative perspective and of  
18  
19 their evolution over time are therefore still to be answered.  
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22  
23 The purpose of this paper is to start the challenging task of addressing this gap in the business  
24  
25 history literature in two ways. Firstly, the core contribution of the paper is the collation, in a  
26  
27 consistent and systematic way, of detailed information on the most important features of bankruptcy  
28  
29 and insolvency laws in the largest 30 European economies in a long-term perspective. The paper  
30  
31 spans the period 1850-2015 and is based on qualitative information, derived from legal documents  
32  
33 and secondary sources, turned into a data set of quantitative measures. Whilst a similar  
34  
35 methodology has been used for an analysis limited to the core European countries for the period  
36  
37 1808-1914,<sup>9</sup> this paper expands the study to a much broader set of countries and links the trajectory  
38  
39 of legislative change from the mid-nineteenth century to the current day. The aim is to provide  
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41 researchers with a set of coherent data that can be used either in national or in comparative studies,  
42  
43 both in terms of bankruptcy and insolvency law, but also in terms of long term institutional change  
44  
45 more generally. Secondly, information from the dataset is also analysed in an attempt of identify  
46  
47 some general trends in the evolution of bankruptcy legislation and legal procedures over time, and  
48  
49 present some hypothesis for possible causes behind such trends. Clearly within the limits of a paper  
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51 such as this, it is not possible to explore each of these trends in detail, however the objective is to  
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58 <sup>8</sup> European Commission, *A second chance for entrepreneurs*.

59 <sup>9</sup> Sgard, “Do legal origins matter?”.  
60

1  
2 help move the debate regarding institutional change beyond the constraints of any particular  
3 theories, and open up new avenues for research.  
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6  
7 This article is organised as follows. Section 1 describes the sources and methodology behind  
8 the longitudinal data collection. Sections 2 and 3 use the information from the data set to analyse  
9 the introduction of various types of solutions across time and space and of their various features:  
10 who could apply to them; outcomes possible; conditions demanded; who made the final decision on  
11 their acceptance. Section 4 analyses a specific indicator – the total number of outcomes available in  
12 various systems – which we consider as a basic proxy of the “quality” of bankruptcy and insolvency  
13 institutions. Section 5 offers some concluding remarks.  
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## 23 24 **1. Methodology and definitions**

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27 A study of this kind raises a number of significant methodological challenges. The first issue is the  
28 geographic focus. We adopted a strategy of covering the 30 largest European economies by GDP in  
29 2015, a list of which is presented in the Appendix (Table A). The sample thus includes the majority  
30 of the 28 countries being part of the EU in the same year (with the exclusion of Cyprus, Estonia,  
31 Latvia and Malta), plus other important European economies such as Norway, Russia (and Belarus)  
32 and Switzerland. Some of the countries included did not exist as independent (or legally  
33 autonomous) states for the entire period, hence the number of countries in the sample changes over  
34 time. Specifically, in the period up to WWI the existence of the Austro-Hungarian and Russian  
35 empires, and the lack of independence, for some of the benchmarks, of Romania or Bulgaria  
36 reduced the number of independent (or legally-autonomous) countries to 20 in 1850-70, 21 in 1890,  
37 and 22 in 1915.<sup>10</sup> The number increases to 25 during the interwar period, with the temporary  
38 independence of Lithuania and the foundation of Czechoslovakia, and of the State of Slovenes,  
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56 <sup>10</sup> For the current UK we use just England and Wales. Both Scotland and Northern Ireland have their own legal systems,  
57 which, although similar to English law do exhibit differences in terms of bankruptcy procedures. However, neither  
58 Scotland nor NI are currently independent nations, therefore they have not been included in the sample. The Republic of  
59 Ireland was part of the UK until 1922, but since 1870 it was covered by separate legislation. Hungary benefited from  
60 autonomy since the beginning of the period.

1  
2 Croats and Serbs (lately Yugoslavia), and remains almost the same till the fall of the Berlin Wall  
3  
4 (24, as Lithuania losses its independence after WWII). The political fragmentation that followed  
5  
6 results in the sample size of 30.  
7

8  
9 However, the number of observations actually included in each benchmark does not necessarily  
10  
11 coincide with the number of independent or legally-autonomous countries. For the period up to  
12  
13 1910, all countries are represented in the analysis, as for political entities that were parts of empires  
14  
15 (or other states) we simply used data referring to them.<sup>11</sup> Between the benchmark 1928 and 1975  
16  
17 the spread of communism in eastern Europe ensured these institutions disappear in some of these  
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19 countries, hence the number of observations varies accordingly: 26 in 1928 and 1938, 19 in 1950  
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21 and 22 in 1975.<sup>12</sup> All 30 countries (with the exception of Belarus in 1995) are represented in the last  
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23 two benchmarks 1995 and 2015. Overall, 19 countries are represented over the whole period 1850-  
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25 2015.  
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29 In terms of time span, the analysis aims to capture changes and the evolution of bankruptcy law  
30  
31 over the last century and half by providing a series of snapshots taken at ten benchmark years. We  
32  
33 take 1850 as a starting point because the relevant literature indicates that cultural changes towards  
34  
35 debts, and economic transformations due to the industrial revolution led, a couple of decades later,  
36  
37 to a pan-European wave of changes in bankruptcy and insolvency law.<sup>13</sup> New legislations, in  
38  
39 general, broke with traditional punitive ways of dealing with the issue, embracing a more tolerant  
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44 <sup>11</sup> In this regard, the benchmark 1850 was challenging. As Germany did not exist as a nation state prior to 1871, Prussia  
45  
46 has been used as a proxy for the benchmark years 1850 and 1870. Similarly, the Kingdom of Sardinia has been used as  
47  
48 a proxy for Italy for the year 1850 as the modern Italian State was created in 1861. Also, we have been unable to find  
49  
50 precise information on the Austrian 1781 law (which also applied to Serbia, Czech Republic, Slovenia, Slovakia and  
51  
52 Croatia) while in Norway customary non-recorded norms applied. To solve these problems, for Austria we considered,  
53  
54 instead, the 1853 law, passed only 3 years after the benchmark. For Norway we used instead Sweden as a proxy, given  
55  
56 the strong influence this country had on the development of Norwegian legislation. For instance, the 1863 Norwegian  
57  
58 bankruptcy law was considered at the time as widely influenced by the Swedish act passed just one year earlier (see:  
59  
60 Hoehster, *Manuel de droit commercial Francais et étranger*.) In Romania and Bulgaria, the Turkish 1850 commercial  
code applied until these countries passed their own commercial codes (Lyon-Caen et Renault, *Traité de droit  
commercial*).

<sup>12</sup> It is interesting to note that, although bankruptcy was conceptually impossible during communism, some countries  
had laws to deal with the phenomenon. Pre-communist law in Poland and Romania was not abolished under  
communism, while a new legislation was passed in 1970s Yugoslavia. In these cases, although these institutions were  
rarely used, we collected information and included then in the database. Also, we note that no information was available  
for independent Lithuania between WWI and WWII.

<sup>13</sup> Sgard, "Do legal origins matter?"

1  
2 and supportive philosophy.<sup>14</sup> The snapshot taken in 1850, therefore, crystallises the reality of legal  
3  
4 institutions before the subsequent transformations, and allows for a comparative analysis of the  
5  
6 changes. The remaining nine benchmarks have been selected to allow us to observe the impact of  
7  
8 great political events in European history – such as the two World Wars, and the fall of communism  
9  
10 – but also of the main economic transformations represented by the First and then Second industrial  
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12 revolution (three benchmarks between 1870-1914); the economic instability and crises of the  
13  
14 interwar years (two benchmarks between 1918-1939); the “Golden Age” of European economic  
15  
16 growth (two benchmark between 1950-1970), and the end of communism and the advent of the  
17  
18 recent wave of globalization (benchmarks 1995 and 2015).  
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23 In regards the type of data collected and studied, the very wide scope of our analysis forced us  
24  
25 to focus exclusively on “formal” aspects of bankruptcy, i.e. the features of the official procedures  
26  
27 contained in legislation. We are fully aware that such an approach comes with limitations:  
28  
29 historically, in some countries formal institutions were rarely used while, allegedly, extra-judicial  
30  
31 solutions were very popular. Although a systematic study of this topic is beyond the scope of this  
32  
33 paper, where possible the paper refers to available information on the nature of enforcement  
34  
35 mechanisms and actual functioning of procedures, in order to give the reader at least a sense of the  
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37 degree of usage of formal solutions to bankruptcy.  
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41 In order to study formal aspects of legislations, we start by defining three ideal types of  
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43 solutions (*bankruptcy* procedure; *pre-bankruptcy* procedure; businesses *re-launching* procedure)  
44  
45 and then analyse when these appeared in the countries under analysis, and which specific  
46  
47 characteristics they took.  
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49

50 *Bankruptcy* procedure in the narrow sense, is the traditional and basic channel to deal with  
51  
52 insolvent or illiquid firms and businesses. It requires a formal declaration of bankruptcy and is a  
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54 fully judicial remedy, in the sense that it takes place in a court. Even this basic solution, however,  
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59 <sup>14</sup> Di Martino and Hautcoeur, “The Functioning of Bankruptcy Law”; Sgard, “Do legal origins matter?”.  
60

1  
2 can vary in its practical implementation. Among key aspects, historical literature has looked at the  
3  
4 issue of the possible outcomes of the procedure, its coverage in terms of legal entities allowed to  
5  
6 use it, and who had the right to open it. Traditionally, bankruptcy was based on the liquidation of  
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8 the debtor's business and the sale of its assets but, overtime, legal systems started allowing also the  
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10 possibility of closing the procedure via a settlement with the creditors comprising the re-payment of  
11  
12 a given percentage of the debts. This was a very important change, with 19<sup>th</sup> and early 20<sup>th</sup> century  
13  
14 commentators stressing the key role of this solution in increasing the overall efficiency of  
15  
16 bankruptcy procedures, in particular in terms of reducing waiting time and increasing payments to  
17  
18 creditors.<sup>15</sup> Therefore, in the paper we record, for each benchmark, whether or not bankruptcy  
19  
20 allowed for a composition as well as liquidation. Another key aspect of bankruptcy relates to its  
21  
22 application. Over the course of the 19<sup>th</sup> century, and up to the 1930s, fierce debates arose among  
23  
24 legal scholars, both in common and civil law countries, on whether this solution should have been  
25  
26 reserved for merchants (or traders), as common in French-derived legislation, or open to all  
27  
28 categories, as it was the case of England after 1861 or Germany since 1877.<sup>16</sup> Considering that non-  
29  
30 traders, in general, were exposed to a much stricter legislation, opening-up bankruptcy to them was  
31  
32 part of a generalised attempt at mitigating conditions for debtors which characterised much of the  
33  
34 later 19<sup>th</sup> century reforms. This approach was the result of the growing awareness of two facts. The  
35  
36 first one, that economic failure was not necessarily the result of misfortune. Secondly, that  
37  
38 encouraging honest yet unlucky debtors to use the bankruptcy system would have generated  
39  
40 advantages to creditors by limiting the use of extra-judicial solutions or the dissipations of resources  
41  
42 via procrastination over the declaration of bankruptcy.<sup>17</sup> Connected to this point, a third  
43  
44 fundamental aspect of bankruptcy procedure concerns its opening. Traditionally it was up to  
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53 <sup>15</sup> Rezzara, *Il concordato nella storia, nella dottrina, nella giurisprudenza*; and Bolaffio, *Il concordato preventivo*.

54 <sup>16</sup> Brown, "Comparative legislation in bankruptcy."; del Marmol, *La faillite en Droit Anglo-saxon*. Bolaffio, *A*  
55 *proposito della riforma del fallimento*.

56 <sup>17</sup> For similar opinions, see Robert *De la liquidation judiciaire des sociétés*, 1-2, and Bolaffio, *Il concordato preventivo*,  
57 quoted by Di Martino and Hautcouer "The Functioning of Bankruptcy Law", 583. For analysis of the impact of cultural  
58 change on the severity of bankruptcy see, among many others, Duffy, *Bankruptcy and Insolvency in London*, and  
59 Lester, *Victorian Insolvency*.  
60

1  
2 creditors to declare the bankruptcy of debtors but, overtime, debtors were allowed to make the first  
3  
4 move themselves or, in other cases, courts could act independently. In the paper we thus collect  
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6 information on this aspect, recording whether bankruptcy law applied to all creditors, or just to  
7  
8 some specific groups as well as information about the right start the procedure.  
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10  
11 The introduction of pre-bankruptcy proceedings or arrangements<sup>18</sup>, the second ideal type of  
12  
13 procedure we use in the paper, is considered one of the major institutional changes occurring in the  
14  
15 history of bankruptcy.<sup>19</sup> These solutions represented an alternative and parallel path (although in  
16  
17 various cases failing to obtain it pushed debtors back to the bankruptcy track) requiring an  
18  
19 agreement with (a variable majority of) creditors to be reached before the actual declaration of  
20  
21 bankruptcy. The agreement was supervised by the court and often also subject to its approval. Some  
22  
23 early examples of these procedures were the *concordat préventif* in Belgium (1883), the *deeds of*  
24  
25 *arrangements* in England (1887), the *liquidation judiciaire* in France (1889). As compared to  
26  
27 bankruptcy procedures, these solutions had in common the aspect that they do not lead to the formal  
28  
29 declaration of bankruptcy for debtors. This avoided the need for debtors to be “rehabilitated” in  
30  
31 order to run businesses and, in countries such as France and England, the loss of civil and economic  
32  
33 rights that came with the legal condition of a bankrupt.<sup>20</sup> As with bankruptcy, these proceedings  
34  
35 differed in various ways among countries. Although geared towards reaching a settlement over  
36  
37 payment of a given share of debts, in some legal systems they could also allow for the liquidation of  
38  
39 the creditor’s business. This key difference is recorded and analysed in the paper. A second  
40  
41 difference concerned ex-ante conditions (usually guarantees to be able to pay at least a given share  
42  
43 of unsecured debts) that had to be respected in order for a pre-bankruptcy procedure to be allowed.  
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<sup>18</sup> Although similar in meaning, these solutions have been called different names such as non-bankruptcy arrangements or compositions, or pre-insolvency proceedings or arrangements.

<sup>19</sup> Sgard, “Do legal origins matter?”; De ruysscher, “At the end, the creditors win”.

<sup>20</sup> See Brown, “Comparative legislation in bankruptcy” for France, and Radin, “Discharge in bankruptcy”, for England.

1  
2 procedures, as was the case in Italy or England before compositions before bankruptcy were  
3  
4 replaced by deeds of arrangements.<sup>21</sup>  
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6  
7 The third ideal type of procedure we analyse in the paper are solutions to bankruptcy  
8  
9 specifically aimed at keeping business alive and re-launching them, what in the paper we called *Re-*  
10  
11 *launching procedures*. A milestone in the history of the evolution of bankruptcy is the  
12  
13 understanding that a firm has a higher value as an ongoing concern compared to the sum of the  
14  
15 market price of its individual assets, and that saving a firm avoids the economic and social costs that  
16  
17 come with business liquidation via specific procedures.<sup>22</sup> In looking at this type of solution a key  
18  
19 distinction must be made between proper *pre-launching* procedures and the *pre-bankruptcy*  
20  
21 procedures described above. Although in contemporary debates the latter are often seen as  
22  
23 company-restructuring devices because of the option of keeping firms alive by reaching a  
24  
25 settlement, it is very clear that historically this was not the case, and business re-launch was not  
26  
27 their aim. As stressed by contemporaries and by historical literature these procedures were, instead,  
28  
29 part of the trend described above aiming at reaching better deals for creditors by offering debtors  
30  
31 less punitive solutions.<sup>23</sup> Instead, examples of the business-saving approach characterised different  
32  
33 solutions such as the English *administration* or *receivership*, the Belgian *administration contrôlée*  
34  
35 and the Italian *amministrazione controllata*. These procedures vary in nature, but they all rely on  
36  
37 some or all of the following elements: a period of “freeze” when creditors are not allowed to push  
38  
39 the business into bankruptcy (debt moratorium); the conversion of credits into securities of a new  
40  
41 company which replaces the one in distress; the provision of an industrial plan for the future; the  
42  
43 replacement of existing management. In this paper we record when these institutions started  
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53 <sup>21</sup> Di Martino, “Approaching Disaster”; Di Martino and Hautcoeur, “The Functioning of Bankruptcy Law”.

54 <sup>22</sup> Bonsignori, *Il fallimento*.

55 <sup>23</sup> As argued by Robert, towards the end of the 19<sup>th</sup> century, “La liquidation judiciaire et la faillite sont deux procédures  
56 qui ... tendent au même but, la sauvegarde des intérêts des créanciers”. (“liquidation judiciaire and faillite are two  
57 procedures ... aiming at the same goal, the safeguard of creditors interests.”): Robert *De la liquidation judiciaire des*  
58 *sociétés*, 11. This view has been recently reinforced by De ruysscher. Describing the aim of pre-bankruptcy  
59 proceedings, he argues: ‘Legislators could secure the cooperation of insolvents, but this was not per se combined with  
60 efforts of continuity of business or corporate rescue.’: De ruysscher, “At the end, the creditors win”, 3.

1  
2 appearing and what form they took. In particular, we distinguish between the introduction of the  
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4 mere debt moratorium (often unable to address the problem of business re-launch, and in very  
5  
6 limited use) and the appearance of more complex solutions.  
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9 Finally, as a synthetic measure, we analyse the number of possible outcomes offered in each  
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11 country at each benchmark as a way of assessing the menu of options available to deal with  
12  
13 bankruptcy at that time. To calculate this variable, we add the total number of procedures (pre-  
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15 bankruptcy, bankruptcy and re-launching) also taking into account their possible outcomes. So, for  
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17 instance, in a country where there is a pre-bankruptcy procedure that can only lead to composition  
18  
19 and where bankruptcy procedure can lead to liquidation or composition, and there are also two  
20  
21 different re-launching procedures, will have a total of five outcomes (one for pre-bankruptcy, plus  
22  
23 two for bankruptcy and plus two for re-launching).<sup>24</sup>  
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26  
27 The approach we take in this paper is based on the following steps. Using a wide set of secondary  
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29 sources (sources are described in the appendix) firstly we populate Table A (in the Appendix),  
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31 which records which law applied at each country/benchmark, the changes (or lack of) vis-a-vis the  
32  
33 previous country/benchmark, and the sources we used in each case. Because of the non-historical  
34  
35 nature of some sources, for each benchmark/nation we cross-referenced at least two sources (when  
36  
37 possible).  
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41 Changes in the legislation are considered only in the following cases:  
42

- 43 • Provision of new legislation replacing the previous one. We use this definition even when,  
44  
45 as in many communist countries, the previous legislation has not been active for a period of  
46  
47 time.  
48
- 49 • Introduction of a pre-bankruptcy or re-launching procedure, when distinct from the  
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51 introduction of a bankruptcy law.  
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57  
58 <sup>24</sup> We do not include special procedures only open to specific debtors such as cooperative firms, insurance companies,  
59  
60 banks, etc.

- Changes in one key aspects of the procedures described above (possible outcomes; opening of the procedure; inclusion of different types of debtors; ex-ante conditions)

This specific definition of “change” results in the omission of some cases of known reforms that have been identified in the literature,<sup>25</sup> and does not fully capture the dynamics of change in common law countries, where judges attitudes could deeply influence the meaning and actual functioning of procedures.<sup>26</sup> Despite these limitations, we believe that the criteria we have adopted for “change” enables the identification of the main episodes of institutional change in a consistent way.

The second step of our analysis (in section 2) consists of charting such change across time and countries, in order to try and identify possible similarities, and to look at the relationship between economic, political and legal transformations.

In the third step of the analysis, for each country/benchmark we use a wider set of sources, which also includes primary sources such as laws and acts (either in the original language or translated,) to analyse the details of the legislation in order to populate the spreadsheet.<sup>27</sup> This information is then analysed in sections 3, 4, and 5.

## **2. Institutional change: the nature of legislative process**

In this section we analyse the evolution of bankruptcy law across European countries in terms of year of introduction and number and types of changes. The aim is to capture features such as the existence of national trends, as well as the persistence of institutions when facing exogenous shocks.

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<sup>25</sup> For instance, we did not include the reforms passed in France (1905), Austria (Law 16 March 1884, G.U. n.35 and n. 36), and Greece (Law of 22 February 1910). Conversely, we included as “change” the laws passed in Germany (1898), Italy (1865), and Ireland (1872) given that formally they fully replaced the preceding law.

<sup>26</sup> For instance, English judges’ acceptance of the so-called “floating charge” is considered to have profoundly changed the functioning of corporate insolvency law, see Franks and Sussman “Financial Innovation”. However, the extent to which such developments in judicially sanctioned law continued into the 20<sup>th</sup> century has been open to debate, see Armour “Floating Charge” and Coyle and Turner “Law, Politics, and Financial Development”.

<sup>27</sup> Both the database and the list of sources by country are available on request.

### 2.1. When countries passed a national legislation “first”

At the beginning of the 19<sup>th</sup> century, bankruptcy norms included in the French commercial code of 1808 were the basic model for most European countries and were directly used in Belgium, Switzerland and some of the German states. By the 1850s, however, a process of establishment of national laws was well under way, although the time when this process was initiated differs between countries. We can posit various potential reasons for this: the degree of political and institutional stability of each nation, the state of its economic development and, as suggested by dominant economic literature, the belonging to a specific “legal family”: French; Anglo-Saxon (Common law); Scandinavian; German<sup>28</sup>. Table A shows that at the first benchmark (1850), more than 70 per cent of the countries included in the sample<sup>29</sup> had a national specific system of bankruptcy procedures - although not necessarily a free-standing bankruptcy law, as sometimes norms were part of the commercial code or provided via “ordinances”. By the following benchmark (1870) - and with the inclusion of Belgium, Germany, Norway, Finland, and Ireland - nearly all the countries in the sample (around 90%) had implemented a national bankruptcy system. Two countries (Romania and Switzerland) completed the process by the following benchmark, with Bulgaria passing a national law by the 1910 benchmark

In seeking possible explanations for these results the issue of “legal family” does not appear to be significant, as the pattern of institutional change shows little evidence of clustering according to

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<sup>28</sup> The legal origins concept - the idea that nations belong to specific legal families - was originally developed by legal scholars such as Zweigert and Kötz (*An introduction to Comparative Law*). It has subsequently been used by economists to analyse the pattern of development of national legislation over time. This approach tries to explain why some countries (the ones belonging to the Anglo-Saxon group) tend to have legal institutions more suitable to promote long-term growth (for an overview of this literature, see La Porta, Lopez-de-Silanes and Shleifer, “The Economic Consequences”). This approach has been challenged by business historians - for a recent survey, see Musacchio and Turner, “Does the law and finance hypothesis”.

<sup>29</sup> In constructing this variable we include countries which later became independent but were, at the time, part of bigger political entities which possessed bankruptcy institutions. For example, countries such as Belarus, Lithuania and Poland which were part of the Russian empire, or areas under the Austrian rule. Conversely, we do not include independent countries (such as Belgium or Norway) which used customary solutions or legislation/commercial codes developed by other independent countries.

1  
2 specific legal groups.<sup>30</sup> Similarly, the degree of economic development appears a poor explanation,  
3  
4 if we consider that relatively-backward countries such as Russia, Poland and Spain had national  
5  
6 legislation before emerging industrial powers such as Germany or Belgium. What appears to be the  
7  
8 case is that the establishment of a national commercial code and a bankruptcy law was an important  
9  
10 component in the process of state-building, as the advent of political stability (or the age of  
11  
12 consolidation of state power) seems concurrent with the appearance of national legal institutions in  
13  
14 this field. The process displayed a complex relationship with the existing models. For instance,  
15  
16 while Italy and Greece de facto almost simply translated the French code in an attempt at  
17  
18 demonstrating their consolidation as advanced economies, Belgium and Holland tried to mark their  
19  
20 independence by making nation-specific changes to the law they had inherited from their previous  
21  
22 rulers.<sup>31</sup>  
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## 28 2.2. Changes by country

29  
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31 Other than the date of introduction of the initial bankruptcy law, another interesting aspect is  
32  
33 the number of changes over time as defined in the previous section. Figure 1 below plots, for each  
34  
35 country, the number of changes from the 1870 benchmark onwards. Likewise, the timing of the  
36  
37 introduction of bankruptcy procedures gives some indication as to the validity of the idea that  
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39 belonging to a specific legal family might dictate some similarities in the process of institutional  
40  
41 (legal) change.  
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45

46 **Fig. 1 here**

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53 <sup>30</sup> Countries have been classified according to La Porta, Lopez-de-Silanes and Shleifer (“The Economic  
54  
55 Consequences”). Communist countries, not analysed by La Porta et al., have been classified in the German family if  
56  
57 previously part of the Austro-Hungary empire or in the French family if originally part of the Russian Empire. Rumania  
58  
59 is classified as belonging to the French family. Bulgaria adopted German law in all areas but in bankruptcy, where it  
60  
used the French model (Société de Législation Comparé *Annuaire de législation étrangère 1898*), hence it is considered  
as part of the French family.

<sup>31</sup> See Bonsignori, *Il fallimento*, for Italy, Tambacopoulos, “The Bankruptcy Laws of Greece” for Greece, and De  
ruysscher, “At the end, the creditors win” for Belgium and Holland.

1  
2 The evidence from Ireland and England, displaying 6 and 5 changes respectively against a modal  
3 range of 3 changes, at first glance suggests that their “legal family” might have played a role, but  
4  
5  
6 this stands at odds with other cases. For instance, clear differences exist between Norway and  
7  
8  
9 Sweden (respectively 3 and 5 changes), despite their cultural ties and the belonging to the same  
10  
11 legal family. At the same time, collective political stability seems to be a good explanation for  
12  
13 similarities - for instance in the three Benelux countries the basic legal frameworks were based on  
14  
15 late nineteenth century laws (with some changes in the 1930s) for most of the period and, in general  
16  
17 these countries show a limited number of changes. On the other hand, countries formerly belonging  
18  
19 to Yugoslavia (Croatia, Serbia, and Slovenia) and to a lesser extent Czech Republic display  
20  
21 relatively high numbers of changes, but this appears to be in line with a common history of multiple  
22  
23 political changes, rather than the collective belonging to a legal family.  
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### 28 *2.3. Changes by benchmark and the introduction of “alternative” procedures*

31 Instances of legal change not only differ across countries but also chronologically, with  
32  
33 phases of rapid changes between periods of calm. Figure 2 plots the number of changes occurring,  
34  
35 at each benchmark, as percentage of the number of existing independent (or legally-autonomous)  
36  
37 countries.  
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42 **Fig. 2 here**

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44  
45 Figure 2 shows a period of a high, and growing number of changes up to WWI, followed by  
46  
47 another (lower) peak at the end of the 1930s. After a long period of calm after WWII, the process of  
48  
49 legal reforms gathered fresh momentum from the 1990s onwards, with the number of changes being  
50  
51 the absolute highest in 2015.  
52  
53

54 The period up to 1910 was a phase of deep economic change with profound technological  
55  
56 transformation which characterised the Second industrial revolution. As argued in section 1, these  
57  
58 economic changes progressively revealed the inadequacy of traditional punitive bankruptcy law,  
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1  
2 and triggered institutional transformation. This took place mainly via the introduction of alternative  
3 pre-bankruptcy procedures. Figure 3 shows the share of countries which at a given point in time had  
4 such procedures. The figure gives data both for the total sample at that point in time, and for the  
5 countries that are constantly present in the sample from 1850 onwards.  
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10  
11  
12 **Fig. 3 here**  
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14

15 While in 1850 only a limited percentage (about twenty per cent) of countries had such  
16 procedures, by 1910 this had risen to about 60 per cent, something that helps explain the high  
17 number of changes occurring to bankruptcy laws during this time. It must be noted, however, that  
18 the process of the introduction of these procedures continued after WWII, with the share of  
19 countries having at least one type of pre-bankruptcy solution jumping to more than 80 per cent in  
20 1950 for the total sample. These results offer some qualification to the established view linking the  
21 introduction of pre-bankruptcy procedures to an awareness of the inadequacy of traditional  
22 remedies in a rapidly-changing economic environment. The institutional response to similar  
23 economic and cultural changes took place along national lines, and according to internal national  
24 considerations. Among them, we can include the approach to the German codes, which emerged as  
25 a leading alternative to the French model<sup>32</sup> and did not include pre-bankruptcy procedures. In  
26 conclusion, the process of institutional convergence suggested by the literature is still visible,<sup>33</sup> but  
27 it appears much slower and more complex when the sample of countries is expanded.  
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45 In order to explain the timing in the changes occurring to bankruptcy law we have to consider  
46 another institutional change occurring in the period up to WWI: the introduction of what we defined  
47 as re-launching procedures. Figure 4 plots the percentage of nations which, at a given point in time,  
48 as re-launching procedures. Figure 4 plots the percentage of nations which, at a given point in time,  
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57 <sup>32</sup> This was certainly the case in 1930s Greece, where scholars argued that “provisions on Bankruptcy of the Greek  
58 Commercial Law are now considered as antiquated ones, the modern Law on bankruptcy not having been taken into  
59 view, as for instance the German one. Tambacopoulos, “The Bankruptcy Laws of Greece”, 155.

60 <sup>33</sup> Sgard, “Do legal origins matter?”.

1  
2 had such procedures. The figure gives data both for the total sample at that point in time, and for the  
3  
4 countries that are constantly present in the sample from 1850 onwards.  
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7

8 **Fig. 4 here**  
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10  
11 Our data, independently of which sample we consider, shows a clear increase, with the the  
12 biggest jump occurring in 1910. This picture stands at odds with the idea that major economic  
13 shocks - specifically the 1930s great depression – triggered such legal change. Evidence of a  
14 possible link between the 1930s crisis and the need to introduce legal devices to support businesses  
15 in trouble could be found, at fist glance, in the tone (and even the title) of coeval literature both in  
16 Europe and the US.<sup>34</sup> as well as in the almost parallel introduction of this type of procedure in  
17 various countries, for instance Belgium (1934) and Italy (1942). Our data, however, does not  
18 support the existence of such a clear-cut connection. This result is, in part, due to having included  
19 among this type of procedure typically XIX century remedies such as debt moratorium. Such  
20 devices had little practical use or effectiveness, as clearly shown in the cases of 19<sup>th</sup> century  
21 Netherlands or Italy, where business could apply to such a procedure only when the assets exceeded  
22 the liabilities.<sup>35</sup> Yet, however ineffective, the early introduction of these devices can be seen as  
23 evidence of the fact that policy-makers seem to have been concerned with issue of avoiding undue  
24 liquidations of firms earlier than we previously believed. Furthermore, the lack of concurrence  
25 between the introduction of re-launching procedures and the great depression can also be explained  
26 by considering that the 1930s economic shocks probably stimulated adaptations to existing  
27 institutions rather than triggering the introduction of entirely new ones.<sup>36</sup> This conclusion is  
28 supported by nation-level evidence: in Belgium, for example, the *Administration Contrôlé* was  
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54 <sup>34</sup> See, Levi and Moore, “Bankruptcy and Reorganization” for the US, and del Marmol, *La faillite en Droit Anglo-Saxon*  
55 for continental Europe.

56 <sup>35</sup> See, De ruysscher, “At the end, the creditors win”, for Holland, and Bonsignori, *Il fallimento*, for Italy.

57 <sup>36</sup> Several changes occurred relatively early on in the crisis: Yugoslav law changed in 1930 (accounting for three  
58 instances of change, as it covered modern day Croatia, Serbia and Slovenia), while Slovak and Czech laws changed in  
59 1931.  
60

1  
2 introduced in 1934 but only for two years, in Italy special case was made for banks and insurances,  
3  
4 but there was no reshaping of bankruptcy law overall, while in England, as stressed by  
5  
6 contemporary commentators, “the ... economic crises produced no basic change”.<sup>37</sup>  
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9 The benchmark years in the Golden age (1950 and 1975) are notable for their lack of changes  
10  
11 and this is confirmed by our data. This is unsurprising given the existence of communist states, and  
12  
13 the long-term stable economic growth during the period.  
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15

16 The increase in the number of changes from benchmark years 1975 and 1995 is clearly caused  
17  
18 by the collapse of communism and its aftermath, with the emergence of new capitalist European  
19  
20 nations, which required the institutions to deal with business failure.  
21  
22

23 The 2007-8 financial crisis is one of the main causes of the high number of changes for the  
24  
25 2015 benchmark. However, many of the changes relate to post-communist nations. The data  
26  
27 supports the argument that their initial post-communist bankruptcy laws in the 1990s were hastily  
28  
29 formulated institutions that struggled to cope with the economic volatility of the period, and  
30  
31 consequently underperformed. Specifically, data on the number of outcomes available by law  
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33 (arguably the most relevant synthetic statistic about the “quality” of bankruptcy institutions) shows  
34  
35 a sharp rise between 1995 and 2015 for post-communist countries (see sections below for details).<sup>38</sup>  
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### 40 **3. Institutional features: procedures across time and space**

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42 The introduction of legal institutions across time and space analysed in the previous section,  
43  
44 does not seem to indicate that European countries smoothly converged towards similar  
45  
46 architectures, but rather it highlights the extent to which national trends shaped different paths of  
47  
48 development. To analyse these issues, we consider some of the features of various institutional  
49  
50 devices (bankruptcy and pre-bankruptcy procedures).  
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57 <sup>37</sup> Levi and Moore, “Bankruptcy and Reorganization”, 9.

58 <sup>38</sup> Burniaux, “Establishing financial discipline”; Janda and Rakicova, “Corporate Bankruptcies in Czech Republic”;  
59 Cepec, “Corporate insolvency law”.  
60

### 3.1. Bankruptcy

The first aspect we investigate is the share of countries whose bankruptcy procedure could lead to either a liquidation of the debtor's business or an agreement (settlement) with creditors - a solution often believed to be a "softer" alternative for debtors. Figure 5 shows, specifically, the share of countries whose bankruptcy procedure could end-up with liquidation of the debtor's assets or a composition with creditors.

**Fig. 5 here**

The data shows that already by the 1850 benchmark, and contrary to the image of traditional bankruptcy law as oriented towards liquidation, the vast majority of countries (between 80 and 95 % depending on the sample considered) also allowed for a settlement. Up to 1975, this share remains fairly constant among the 19 countries always represented in the sample, while for the total sample it seems to decline and increase again, whilst never going below 60%. In the last two benchmarks this share declines as some western countries always contained in the sample adopted liquidation-only bankruptcy procedures (Switzerland – 2015, and Portugal - 1995), as did a number of eastern European states post-communism - Croatia, Czech Republic, Hungary and Romania. Hence the decline appears more marked when the total sample it is considered. It should be pointed out that the persistency, and occasional introduction of liquidation-only bankruptcy procedures in the last two benchmarks, can be explained by the parallel introduction of ad-hoc measures to re-launch companies outside the main bankruptcy pathway, for example via the use of pre-bankruptcy procedures or equivalent institutional devices. As such, the recent trend seems to indicate the introduction of more polarised and specific solutions, leaving bankruptcy the role of pure liquidation for extreme cases.

As far as the application of bankruptcy law was concerned, Figure 6 shows the share of countries whose bankruptcy law was open to all debtors, and therefore did not distinguish between traders and non-traders.

1  
2  
3 **Fig. 6 here**  
4

5 Irrespective of the sample considered, the data shows a very clear upward trend to 1938 (with  
6 the share passing from 30-40% to 70-80%), followed by a slight decline to around 60% in 2015.  
7  
8 The trend confirms the established view of a progressive opening of procedures to a wider set of  
9 debtors (typically to non-traders), which led to lawmakers adopting a less punitive attitude, and the  
10 acceptance of the fact that bankruptcy was not necessarily an act of fraud. The data also illustrates  
11 the relative slowness of this process: by WWI, about 40% of the countries in the sample still  
12 discriminated among debtors. The most recent benchmark, 2015, suggests a change of direction  
13 with access to bankruptcy procedures becoming more selective. This change, rather than a reversal  
14 in the attitude towards debtors, can be explained by the parallel introduction of dedicated solutions  
15 for specific categories, confirming the pattern of increasing number of more specialised solutions  
16 noted above.  
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30 Another dimension of bankruptcy concerns who has the legal right to initiate the procedure.  
31 Figure 7 plots the share of countries, for each benchmark, in which a given set of actors (only  
32 debtors; only creditors; only courts; debtors and creditors; debtors and courts; debtors, creditors,  
33 and courts) could initiate a bankruptcy procedure.  
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41 **Fig. 7 here**  
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44 Overall, countries moved along a consistent trajectory of evolving from a situation with the  
45 power largely in the hands of creditors to a more balanced situation in which debtors, creditors (and  
46 court) could make the decision. So while the share of countries where only creditors could activate  
47 bankruptcy procedures declines overtime (eventually disappearing in 2015) legal systems where the  
48 decision could have been made by either debtors or creditors increases over time (with some  
49 fluctuations between 1938 and 1975) to become the most common situation in 2015. This evolution  
50 mirrors the pattern of the share of countries in which all subjects (debtors; creditors; court) were  
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2 allowed to open procedures – this also increases overtime, albeit with a slight decline in favour of  
3  
4 the debtors/creditors from the 1950s. Court or debtors only solutions appear in only a small number  
5  
6 of instances, and a combination of the two is virtually non-existent. This pattern suggests two  
7  
8 things: firstly, the increasing attempts at making debtors collaborate with the functioning of official  
9  
10 procedures that, at the same time, progressively lose their purely punitive nature. Secondly, the  
11  
12 consistent (possibly growing) role given to courts as a potentially “neutral” referee in terms of their  
13  
14 ability to start procedures independently once the option is given to creditors and debtors also.  
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18

### 19 3.2 Pre-bankruptcy procedures

21  
22 A second area we can explore relates to the features of what we defined as pre-bankruptcy  
23  
24 procedures. In particular, we are able to analyse two key aspects: the possible outcomes of these  
25  
26 procedures, and the existence of official pre-conditions for their acceptance by the courts or  
27  
28 creditors. Figure 8 shows the relative share of countries for which pre-bankruptcy could lead to  
29  
30 liquidation, composition, or both.<sup>39</sup>  
31  
32

33  
34  
35 **Fig. 8 here**  
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38 The Figure shows a revealing pattern. At the beginning of the period (1850), in the very few  
39  
40 countries where pre-bankruptcy procedures existed, their outcome was equally divided between  
41  
42 composition or composition and liquidation. In the following two decades, however, this type of  
43  
44 procedures became common in most countries, but often directed towards liquidation (60% of cases  
45  
46 in 1870), confirming their structurally different role vis-à-vis re-launching procedures. As argued by  
47  
48 contemporaries, at their introduction pre-bankruptcy procedures were not intended as devices to  
49  
50 promote the re-launch of businesses, rather as a quicker, and probably less expensive - given the  
51  
52 limited involvement of courts in the process - ways to collect debts.<sup>40</sup> This role changes around the  
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56  
57 <sup>39</sup> Given the relative low number of countries with such procedures, in figure 8 we do not distinguish between the total  
58 sample and countries always included in it.

59 <sup>40</sup> Robert, *De la liquidation judiciaire*.  
60

1  
2 1910s, when in about two third of countries these procedures turned into pro-settlement ones, and  
3  
4 accelerated since the 1950 when liquidations in pre-bankruptcy procedures disappear. However in  
5  
6 about one third of the cases these procedures keep the double outcome of liquidation or settlement,  
7  
8 suggesting that their transformation into re-launching mechanisms is still non complete. Regarding  
9  
10 this point, it is interesting to note how this feature varies even in within group of countries sharing  
11  
12 the same legal background. For instance, common law countries (Ireland and England) have two  
13  
14 solutions for a long time, but Ireland adopts the settlement-only pattern after 1995. Conversely,  
15  
16 France and Spain both have the dual track system, but not Belgium - one of the most important  
17  
18 French-law countries. Within Scandinavia, Sweden has two solutions but Denmark only one, while  
19  
20 Germany is a famous case of a total absence of such procedures for a long period (pre-bankruptcy  
21  
22 procedures were only introduced in 1938).  
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27 The final variable we analyse is whether or not pre-bankruptcy procedures were subject to the  
28  
29 fulfilling of some ex-ante conditions in terms of guaranteeing the payment of a share of unsecured  
30  
31 debts. This is a fundamental issue as ex-ante conditions could have been a major deterrent to the use  
32  
33 of these procedures, and determined their degree of adoption across various countries.<sup>41</sup> Figure 9  
34  
35 plots the share of countries having pre-bankruptcy procedures subject to ex-ante conditions.  
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39

40 **Fig. 9 here**  
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43 At the beginning of the period all countries which had adopted such procedures imposed no  
44  
45 conditions, but a rapid change is visible between 1910 and 1928. Although still in a minority of  
46  
47 countries (20% to 40% depending on the sample), the practice of having ex-ante conditions became  
48  
49 more common. This share stabilises in the countries always present in the sample (apart from an  
50  
51 increase to about 30% in 1995), whilst fluctuating to a great degree in the total sample. By 2015  
52  
53 both cohorts end up at a similar level. A possible interpretation of this pattern stems from  
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58  
59 <sup>41</sup> Di Martino and Vasta, "Companies' insolvency"; Di Martino and Hautcoeur, "The Functioning of Bankruptcy Law".  
60

1  
2 considering the changing nature of these procedures over time. As long as they are simply used as a  
3 more efficient and cheaper alternative to straight bankruptcy no strings are attached to them.  
4  
5  
6 However, when such procedures start to show a clearer settlement-oriented pattern, then legislators  
7  
8 feel the need to add stronger protection for creditors, as well as norms signalling the relative higher  
9  
10 quality of creditors allowed to use softer solutions. When looking at specific national case studies, it  
11  
12 seems hard to establish a general rule: conditions are imposed for a long time in England, Italy, and  
13  
14 Portugal but, for instance, not in France.  
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#### 19 **4. Number of outcomes**

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22 In this section we analyse the pattern of the total number of possible solutions to the problem  
23  
24 of insolvency as defined in Section 1. The general assumption we adopt is that the greater the  
25  
26 number of outcomes available, the greater the ability of bankruptcy institutions to deal with  
27  
28 complex situations where a one-size-fit-all approach is not efficient. As such, we use the number of  
29  
30 outcomes as a generic proxy for the sophistication and “quality” of bankruptcy institutions and we  
31  
32 explore the possibility that such “quality” evolved, over time and space, parallel to the increasing  
33  
34 growth and complexity of the economies.  
35  
36  
37

38 To analyse, in general, the evolution of the variable over time, in Table 1 we provide the  
39  
40 descriptive statistics of our sample.<sup>42</sup>  
41  
42

#### 43 **Table 1 here**

44  
45  
46  
47 Table 1 shows a clear trend towards increase over time: the average number of total  
48  
49 outcomes increased from 2.2 in 1850 to 4.3 in 2015, when also the overall maximum (7) is the  
50  
51 highest ever. The slight decline in 1950 and 1975 can be explained by the growing presence of  
52  
53 communist countries for which this variable takes the value of zero. This pattern suggests that, in  
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56  
57 <sup>42</sup> For the sake of consistency with Table 2, we only include independent countries.  
58  
59  
60

1  
2 general, more solutions to bankruptcy and insolvency have been put in place as the complexity of  
3  
4 the economies increases although the direction of causality remains to be established.  
5

6  
7 In table 2 we analyse the relation between economic and institutional development by  
8  
9 providing, for five selected benchmark years, the average number of outcomes by countries grouped  
10  
11 by quartiles according to levels of GDP per capita in each year. In order to obtain consistent  
12  
13 national estimates of GDP, we have only included in the table countries which were independent at  
14  
15 each benchmark.  
16

17  
18 **Table 2 here**  
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22  
23 Results in Table 2 confirm our hypothesis: overtime countries grouped in the highest quartiles  
24  
25 (Q1) of the distribution of GDP per capita also appear to have, in general, a wider menu of solutions  
26  
27 to deal with insolvency and bankruptcy. In fact, the standard deviation of the variable appears to be  
28  
29 lower for richer countries, suggesting also a higher degree of consistency of the quality of legal  
30  
31 institutions among richer economies. Again, although the direction of causality remains to be  
32  
33 established, it appears that more complex economies also possess more efficient legal settings.  
34  
35

36  
37 To better understand the nature of the evolution in the number of outcomes across time and  
38  
39 space, it is worthwhile analysing whether differences existed across countries and country  
40  
41 groupings. Table 3 below shows the number of outcomes at various benchmarks for groups of  
42  
43 countries.  
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45  
46  
47 **Table 3 here**  
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50 In terms of the five largest economies of western Europe (by nominal GDP), England tends  
51  
52 to show the highest number of outcomes, whilst Spain generally exhibits the lowest. Germany has a  
53  
54 relatively low number of outcomes available over most of the period this research covers, largely  
55  
56 because pre-bankruptcy solutions became available much later than in other advanced countries.  
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1  
2 But again, there seems quite a degree of variation between these countries in terms of number of  
3  
4 outcomes and when changes occur.  
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6  
7 The ex-communist states show some of the most pronounced increases between  
8  
9 benchmarks. Their mean number of outcomes tends to be below the overall mean for the 30 country  
10  
11 sample – this is particularly true for the benchmark year 1995 but less so for 2015. The increase in  
12  
13 the number of outcomes for 2015 compared to 1995 again suggests that relatively poor quality  
14  
15 institutions were constructed in the immediate post-communist period, probably to try and quickly  
16  
17 gain legitimacy among Western countries, followed by progressive improvement.  
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20  
21 Grouping countries according to different criteria such as common socio-economic  
22  
23 characteristics, physical proximity or cultural profiles also generates some interesting results. For  
24  
25 example, the Benelux countries display very similar trends in the growth of the number of outcomes  
26  
27 (which is consistent with trends for other variables) and these values remain relatively stable across  
28  
29 the period. Similarly, the group of Russia, Ukraine, Lithuania and Belarus exhibit fairly similar  
30  
31 patterns of outcomes across the period although, in contrast to the Benelux countries, the number of  
32  
33 outcomes is persistently low – far below the mean in most instances. However, as with other aspects  
34  
35 considered in this paper, in other country groupings where one might expect to see similarities in  
36  
37 the number of outcomes, this is not the case. For instance, the Scandinavian countries are very  
38  
39 similar for 1870 and 1890, but from 1910 onwards exhibit quite noticeable divergence terms of the  
40  
41 number of outcomes. Similarly, apart from the period 1910 to 1950, the data for England and  
42  
43 Ireland is perhaps less closely related than expected, particularly as Ireland only gained  
44  
45 independence from the UK in 1922.  
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## 50 51 52 **5. Conclusions** 53

54  
55 Despite its relevance for the historical analysis of business organisation and performance,  
56  
57 little is known about the evolution across time and space of bankruptcy and insolvency laws. This  
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1  
2 paper offers a fresh contribution to this topic by providing a new and detailed picture of such  
3  
4 evolution in Europe between the 1850s and 2015.  
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6  
7 The aim is to help scholars undertaking analysis on business organisation, entrepreneurship,  
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9 or creditors protection within individual nations (looking at Italy, Britain, Germany, or comparing a  
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11 handful of countries) by offering them data that enables such case studies to be placed in a wider  
12  
13 comparative context.  
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15  
16 The paper also provides some insight into the nature of institutional change in an area of key  
17  
18 interest for business historians. In this regard, we can conclude that the data suggests the existence  
19  
20 of a pan-European phenomenon of institutional convergence, almost completed before WWI,  
21  
22 centred around the introduction of procedures alternatives to bankruptcy, their opening to non-  
23  
24 traders, and the progressive involvement of debtors in the functioning of procedures. This early  
25  
26 trend of homogenising the level of protection of creditors and investors seems to be a relatively  
27  
28 strong explanation for the features of long-term institutional change.  
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31  
32 “Path-dependency” in institutional change is certainly visible in some examples, such as  
33  
34 Netherlands, where the law only sporadically changed, but almost unnoticeable in other cases. The  
35  
36 same can be said for external shocks. As expected, periods of economic stability, such as the post  
37  
38 WWII Golden Age, saw very little institutional change, while the industrialisation of economies up  
39  
40 to 1913 was paralleled by rapid and deep transformations in the law. On the other hand, the 1930s  
41  
42 Great Depression left a lighter mark than usually assumed and external economic events had very  
43  
44 different impacts across nations. The missing link between the role of shocks and path-dependency  
45  
46 of institutional change is likely to be in the realm of politics. In this paper we do not study this  
47  
48 variable directly at a national level, but the evidence from the timing of the introduction of  
49  
50 bankruptcy laws, as well as the effect of the fall of communism, clearly show that the process of  
51  
52 state formation (hence of consolidation of the national institutional setting as a whole) had a clear  
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54 and visible contribution.  
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1  
2 Therefore, the central message of this paper is that in order to fully understand the evolution  
3  
4 of institutional architectures, in this case the bankruptcy and insolvency laws, an approach is  
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6 required that pays proper attention to the specific characteristics of these systems over time and  
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8 avoids the trap of simplistic generalizations.  
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## Appendix

### *Sources*

Whenever possible, we directly consulted the actual law, either in the original language or translated. This was possible in the following cases: Holland, 1896; Finland, 2004; Ireland, 1872, 1988; Italy, 1842, 1938, 1942, 2006; Serbia, 2004, 2010; Spain, 1885, 1922; UK, 1914, 1986, 2002; Ukraine, 1992.

For the nineteenth century, commercial laws of some countries were published with a comment in their original language alongside a translation in either French or English, in collections of volumes titled: *The commercial laws of the world* (in English) or *Les lois commerciales de l'univers* (in French). These volumes, published between 1911 and 1914, represented an important source for the reconstruction of the features of laws for countries such as Belgium, Croatia, Denmark, Germany, Hungary, Luxembourg, Norway, Russia, Serbia, Slovenia, Spain, Sweden and Poland. For the same period, vital information could also be extracted from summaries of legislations published annually (in French), in a bulletin edited by the *Société de Législation Comparée* titled *Annuaire de législation étrangère*.

For the period after WWII, European Commission documentation has been a key source in the form of sponsored country reports collectively entitled *Bankruptcy and a fresh start: stigma on failure and legal consequences of bankruptcy*. Although geared towards contemporary issues and policy implications, these reports also provided, often in a very sketchy way, a summary of the historical evolution of bankruptcy and insolvency law.

For both periods, information derived from these sources has been cross-checked and integrated with that available from contemporary or modern comparative analyses, national reports, and various academic studies. Overall, more than one hundred different sources have been consulted.

The full list of sources (beyond the ones included in the references) used to generate the database is available from the authors upon request.

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Table A: Law applying to each country at benchmarks

For Peer Review

	<b>Austria</b>	<b>Belarus</b>	<b>Belgium</b>
<i>Legal family</i>	<i>German</i>	<i>French</i>	<i>French</i>
<i>Period of inclusion in the sample</i>	1850-2015	1850-1910; 1995-2015	1850-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	Yes	No	Yes
<b>1850</b>	<b>Insolvency Act (Konkursordnung) 1781</b>	<i>Part of the Russian Empire (See Russia)</i>	<i>See France</i>
Features of legislation/changes introduced	First national legislation (only generic principles)		
<i>Sources</i>	<i>Cepec (2014)</i>		<i>De ruysscher (2018); Hennebicq (1914)</i>
<b>1870</b>	<b>Law 25 December 1868 G.U. n.1/1869</b>	<i>Part of the Russian Empire (See Russia)</i>	<b>Soursis de pajement law April 1851</b>
Features of legislation/changes introduced	Replaces previous legislation		First national legislation
<i>Sources</i>	<i>Sgard (2006); Pajardi (1988)</i>		<i>De ruysscher (2018); Hennebicq (1914)</i>
<b>1890</b>	<b>No Change</b>	<i>Part of the Russian Empire (See Russia)</i>	<b>Law June 1883 (1887) Concordat preventif</b>
Features of legislation/changes introduced	n.a.		Introduction of new pre-bankruptcy composition
<i>Sources</i>	<i>Annuaire de législation étrangère 1884</i>		<i>De ruysscher (2018); Hennebicq (1914)</i>
<b>1910</b>	<b>no change</b>	<i>Part of the Russian Empire (See Russia)</i>	<b>No change</b>
Features of legislation/changes introduced	n.a.		n.a.
<i>Sources</i>	<i>Sgard (2006); Pajardi (1988)</i>		<i>De ruysscher (2018); Hennebicq (1914)</i>
<b>1928</b>	<b>Konkursordnung (Bankruptcy Law) 1914; Ausgleichsordnung (Settlement and Reorganization of Debts Act) 1914.</b>	<i>Part of USSR (See USSR)</i>	<b>No change</b>
Features of legislation/changes introduced	Replace previous legislation		n.a.
<i>Sources</i>	<i>Pajardi (1988); Klauser (2002)</i>		<i>De Moor, B., and Gibson, M., (2002); Pajardi (1988)</i>
<b>1938</b>	<b>Law 17 August 1934</b>	<i>Part of USSR (See USSR)</i>	<b>No change</b>
Features of legislation/changes introduced	Introduces new re-launching procedures (banks)		n.a.
<i>Sources</i>	<i>Pajardi (1988); Klauser (2002)</i>		<i>De Moor, B., and Gibson, M., (2002); Pajardi (1988)</i>
<b>1950</b>	<b>no change</b>	<i>Part of USSR (See USSR)</i>	<b>No change</b>
Features of legislation/changes introduced	n.a.		n.a.
<i>Sources</i>	<i>Pajardi (1988); Klauser (2002)</i>		<i>De Moor, B., and Gibson, M., (2002); Pajardi (1988)</i>
<b>1975</b>	<b>no change</b>	<i>Part of USSR (See USSR)</i>	<b>no change</b>
Features of legislation/changes introduced	n.a.		n.a.
<i>Sources</i>	<i>Pajardi (1988); Klauser (2002)</i>		<i>De Moor, B., and Gibson, M., (2002); Pajardi (1988)</i>
<b>1995</b>	<b>Financial institutions act 1993 (Bankwesengesetz); Supervision of Insurance companies Act (Versicherungsaufsichtsgesetz)</b>	<b>Law on Economic Insolvency and Bankruptcy, May 30, 1991</b>	<b>no change</b>
Features of legislation/changes introduced	Modifies re-launching procedures/introduces new (banks and insurance)	First national legislation (only generic principles)	n.a.
<i>Sources</i>	<i>Klauser (2002)</i>	<i>Kireeva (2015)</i>	<i>De Moor, B., and Gibson, M., (2002)</i>
<b>2015</b>	<b>Unternehmensreorganisationsgesetz (Business Reorganization Act) 1997; Insolvenzrechts-Novelle 2002 (Insolvency Law Reform Act) 2002</b>	<b>Law on Economic Insolvency (bankruptcy), July 18, 2000</b>	<b>Loi sur les faillites du 8 août 1999/Faillissementswet van 8 augustus 1997”Loi relative au concordat judiciaire du 17 juillet 1997/Wet van 17 juli 1997 betreffende het gerechtelijk akkoord</b>
Features	Introduces new norms for reorganisation	Replaces previous legislation	Replaces previous bankruptcy law; changes in re-organisation procedure; new norms for personal debtors
<i>Sources</i>	<i>Klauser (2002)</i>	<i>Kireeva (2015)</i>	<i>De Moor, B., and Gibson, M., (2002)</i>

	<b>Bulgaria</b>	<b>Croatia</b>	<b>Czech Republic</b>
<i>Legal family</i>	<i>French</i>	<i>German</i>	<i>German</i>
<i>Period of inclusion in the sample</i>	1850-1938; 1995-2015	1850-1938; 1975-2015	1850-1938; 1995-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	No	No	No
<b>1850</b>	<b>Turkish 1850 Commercial Code (see France)</b>	<b>Part of Austria (see Austria)</b>	<b>Part of Austria (see Austria)</b>
Features of legislation/changes introduced			
<i>Sources</i>	<i>Lyon-Caen et Renault (1906)</i>		
<b>1870</b>	<b>no change</b>	<b>Bankruptcy code September the 1st 1853</b>	<b>Part of Austria (see Austria)</b>
Features of legislation/changes introduced	n.a.	First national legislation (Provisional bankruptcy law)	
<i>Sources</i>	<i>Lyon-Caen et Renault (1906)</i>	<i>Cupovic (1914)</i>	
<b>1890</b>	<b>no change</b>	<b>no change</b>	<b>Part of Austria (see Austria)</b>
Features of legislation/changes introduced	n.a.	n.a.	
<i>Sources</i>	<i>Lyon-Caen et Renault (1906)</i>	<i>Cupovic (1914)</i>	
<b>1910</b>	<b>1897 Commercial code</b>	<b>Law 28 March 1897</b>	<b>Part of Austria (see Austria)</b>
Features of legislation/changes introduced	First national legislation	Replaces previous legislation	
<i>Sources</i>	<i>Annuaire de législation étrangère 1898 (1)</i>	<i>Cupovic (1914)</i>	
<b>1928</b>	<b>no change</b>	<b>See Austria</b>	<b>See Austria</b>
Features of legislation/changes introduced	n.a.		
<i>Sources</i>	<i>Annuaire de législation étrangère 1911</i>	<i>Cepec (2014)</i>	<i>Cepec (2014)</i>
<b>1938</b>	<b>Debts arrangement Law 1932</b>	<b>The Insolvency Act (Stečajni zakon za kraljevinu Jugoslaviju) 1930 and Settlement and Recomposition of Debts outside of bankruptcy Act (Zakon o prinudnom poravnanju van stečaja) 1930</b>	<b>Bankruptcy law 1931</b>
Features of legislation/changes introduced	Firstly introduces pre-bankruptcy procedures	Replaces previous legislation	First national legislation
<i>Sources</i>	<i>Annuaire de législation étrangère 1932</i>	<i>Cepec (2014)</i>	<i>Pajardi 1988; Janda and Rakicova (2014)</i>
<b>1950</b>	<b>No bankruptcy law as such</b>	<b>No bankruptcy law as such</b>	<b>No bankruptcy law as such</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	<i>Pajardi (1988)</i>	<i>Cepec (2014)</i>	<i>Pajardi 1988; Janda and Rakicova (2014)</i>
<b>1975</b>	<b>No bankruptcy law as such</b>	<b>Insolvency Act of SFRY (Zakon o prisilni)</b>	<b>No bankruptcy law as such</b>
Features of legislation/changes introduced	n.a.	Replaces previous legislation	n.a.
<i>Sources</i>	<i>Pajardi (1988)</i>	<i>Cepec (2014)</i>	<i>Pajardi 1988; Janda and Rakicova (2014)</i>
<b>1995</b>	<b>1994 Commercial Code</b>	<b>Law on Forced Settlement, Bankruptcy and Liquidation of 1989 (Zakon o prisilnoj nagodbi, stečaju i likvidaciji)</b>	<b>Act of bankruptcy and settlement (n. 328/1991)</b>
Features of legislation/changes introduced	Replaces previous legislation	Replaces previous legislation (Yugoslavian law)	Replaces previous legislation
<i>Sources</i>	<i>O'Brien and Filipov (2001)</i>	<i>Janda and Rakicova (2014)</i>	<i>Janda and Rakicova (2014)</i>
<b>2015</b>	<b>no change</b>	<b>Law 2006 and 2015</b>	<b>Insolvency Act (182/2006)</b>
Features	n.a.	Modifies pre-bankruptcy procedures	Replaces previous legislation
<i>Sources</i>	<i>http://www.bulgariancompanies.com/insolvency-in-bulgaria</i>	<i>Garasic (2016)</i>	<i>Janda and Rakicova (2014)</i>

	<b>Denmark</b>	<b>Finland</b>	<b>France</b>
<i>Legal family</i>	<i>Scandinavian</i>	<i>Scandinavian</i>	<i>French</i>
<i>Period of inclusion in the sample</i>	1850-2015	1850-2015	1850-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	Yes	Yes	Yes
<b>1850</b>	<b>law 1842</b>	<b>See Sweden</b>	<b>Loi du 28 mai 1838</b>
Features of legislation/changes introduced	First national legislation		New Bankruptcy law
<i>Sources</i>	<i>Sgard (2006)</i>	<i>Salilla (2016)</i>	<i>Sgard (2006); De ruysscher (2018)</i>
<b>1870</b>	<b>No change</b>	<b>Konkurssisaanto (Law 9th November 1868)</b>	<b>No change</b>
Features of legislation/changes introduced	n.a.	First national legislation	n.a.
<i>Sources</i>	<i>Sgard (2006)</i>	<i>Sgard (2006)</i>	<i>Sgard (2006); De ruysscher (2018)</i>
<b>1890</b>	<b>Reforms 1872</b>	<b>No change</b>	<b>Loi 4 mars 1889</b>
Features of legislation/changes introduced	Replaces previous legislation	n.a.	Firstly introduces pre-bankruptcy procedures ( <i>liquidation judiciaire</i> )
<i>Sources</i>	<i>Sgard (2006)</i>	<i>Sgard (2006)</i>	<i>Sgard (2006); De ruysscher (2018)</i>
<b>1910</b>	<b>Reforms 1905</b>	<b>No change</b>	<b>No Change</b>
Features of legislation/changes introduced	Firstly introduces pre-bankruptcy procedures	n.a.	n.a.
<i>Sources</i>	<i>Sgard (2006)</i>	<i>Sgard (2006)</i>	<i>Sgard (2006); De ruysscher (2018)</i>
<b>1928</b>	<b>no change</b>	<b>No change</b>	<b>No change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	Andersen, H., and Skanvig, L., (2002)	<i>Pajardi (1988)</i>	<i>Pajardi (1988); Chatelon and Cornu (2002)</i>
<b>1938</b>	<b>no change</b>	<b>Akordilaki (Law 10th May 1932)</b>	<b>No change</b>
Features of legislation/changes introduced	n.a.	Firstly introduces pre-bankruptcy procedures	n.a.
<i>Sources</i>	Andersen, H., and Skanvig, L., (2002)	<i>Pajardi (1988)</i>	<i>Pajardi (1988); Chatelon and Cornu (2002)</i>
<b>1950</b>	<b>no change</b>	<b>No change</b>	<b>No change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	Andersen, H., and Skanvig, L., (2002)	<i>Busi, C., (2002)</i>	<i>Pajardi (1988); Chatelon and Cornu (2002)</i>
<b>1975</b>	<b>no change</b>	<b>No change</b>	<b>Loi du 13 juillet 1967</b>
Features of legislation/changes introduced	n.a.	n.a.	Introduces Norms for company reorganisation
<i>Sources</i>	Andersen, H., and Skanvig, L., (2002)	<i>Busi, C., (2002)</i>	<i>Pajardi (1988); Chatelon and Cornu (2002)</i>
<b>1995</b>	<b>Bankruptcy Act 1977 (Amended in 1984, 1987 and 1991)</b>	<b>restructuring act 1993; acts of adjustment of debts</b>	<b>Amends to Commercial code in 1984 and 1985: 1994 revision to 1985 code</b>
Features of legislation/changes introduced	Replaces previous legislation	Introduction of specific norms complementary to bankruptcy	Replaces previous legislation
<i>Sources</i>	Andersen, H., and Skanvig, L., (2002)	<i>Busi, C., (2002)</i>	<i>Pajardi (1988); Chatelon and Cornu (2002)</i>
<b>2015</b>	<b>The Danish Insolvency Act, Consolidated Act No. 217 of 15 March 2011 as amended by Act no. 4129 of 1st May 2013</b>	<b>120/2004; konkurssilaki (Bankruptcy Act 2004)</b>	<b>No change</b>
Features	Replaces previous legislation	Replaces previous legislation	
<i>Sources</i>	<i>Sjørlev and Højslet (2015)</i>	<i>Pekka and Remes (2015)</i>	<i>Bourbouloux, Pérès, Loget, and Chatelain (2015)</i>

	<b>Germany (Prussia before Unification)</b>	<b>Greece</b>	<b>Hungary</b>
<i>Legal family</i>	<i>German</i>	<i>French</i>	<i>German</i>
<i>Period of inclusion in the sample</i>	1850-2015	1850-2015	1850-1938; 1995-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	Yes	Yes	Yes

1	<b>1850</b>	<b>French code de commerce 1808</b>	<b>Commercial code (Book III)</b>	<b>1840 and 1844 Law</b>
2	Features of legislation/changes introduced	General legal provisions	First national legislation	First national legislation
3	<i>Sources</i>	<i>Jaeger (1914); Brown (1900)</i>	<i>Felios and Vouza (2002); Tambacopoulos (1934)</i>	<i>Sgard (2006)</i>
4	<b>1870</b>	<b>Bankruptcy code 8th of May 1855</b>	<b>No change</b>	<b>No change</b>
5	Features of legislation/changes introduced	First national legislation (Prussia)	n.a.	n.a.
6	<i>Sources</i>	<i>Jaeger (1914); Brown (1900)</i>	<i>Felios and Vouza (2002); Tambacopoulos (1934)</i>	<i>Sgard (2006)</i>
7	<b>1890</b>	<b>Konkursordnung (Law 10th February 1879)</b>	<b>1878 Bankruptcy Act</b>	<b>Law 30th March 1881</b>
8	Features of legislation/changes introduced	First national legislation (Germany)	Replaces previous legislation	Replaces previous legislation
9	<i>Sources</i>	<i>Jaeger (1914); Brown (1900)</i>	<i>Felios and Vouza (2002); Tambacopoulos (1934)</i>	<i>Leyy (1914)</i>
10	<b>1910</b>	<b>Law 17th May 1898</b>	<b>No change</b>	<b>No change</b>
11	Features of legislation/changes introduced	Replaces previous legislation	n.a.	n.a.
12	<i>Sources</i>	<i>Jaeger (1914)</i>	<i>Annuaire de législation étrangère 1910</i>	<i>Leyy (1914)</i>
13	<b>1928</b>	<b>no change</b>	<b>No change</b>	<b>No change</b>
14	Features of legislation/changes introduced	n.a.	n.a.	n.a.
15	<i>Sources</i>	<i>Pajardi (1988)</i>	<i>Felios and Vouza (2002); Tambacopoulos (1934)</i>	<i>Pajardi (1988)</i>
16	<b>1938</b>	<b>Vergleichsordnung 1935 (Scheme of Arrangement code)</b>	<b>N.L. 635/1937</b>	<b>No change</b>
17	Features of legislation/changes introduced	Firstly introduces pre-bankruptcy procedures	Firstly introduces pre-bankruptcy procedures	n.a.
18	<i>Sources</i>	<i>Pajardi (1988)</i>	<i>Felios and Vouza (2002); Pajardi (1988)</i>	<i>Pajardi (1988)</i>
19	<b>1950</b>	<b>no change</b>	<b>No change</b>	<b>No bankruptcy law as such</b>
20	Features of legislation/changes introduced	n.a.	n.a.	n.a.
21	<i>Sources</i>	Göttgens, M., (2002)	<i>Felios and Vouza (2002); Pajardi (1988)</i>	<i>Gerlach, H. (1998); Pajardi (1988)</i>
22	<b>1975</b>	<b>no change</b>	<b>LD 3562/56</b>	<b>No bankruptcy law as such</b>
23	Features of legislation/changes introduced	n.a.	Introduces Winding-up procedure for limited companies	n.a.
24	<i>Sources</i>	Göttgens, M., (2002)	<i>Felios and Vouza (2002); Perakis, E., (2010)</i>	<i>Gerlach, H. (1998); Pajardi (1988)</i>
25	<b>1995</b>	<b>no change</b>	<b>Law 1892/90</b>	<b>Law XLIX of 1991</b>
26	Features of legislation/changes introduced	n.a.	New (more general) regulatory framework for companies re-launch	Replaces previous legislation
27	<i>Sources</i>	Göttgens, M., (2002)	<i>Felios and Vouza (2002); Perakis, E., (2010)</i>	<i>Gerlach, H. (1998); Burniaux (1995)</i>
28	<b>2015</b>	<b>Insolvenzordnung 1999 (Insolvency Act)</b>	<b>Law 3588/2007</b>	<b>no change</b>
29	Features	Replaces previous legislation	Replaces previous legislation	n.a.
30	<i>Sources</i>	Aleth and Derksen (2017)	<i>Perakis, E., (2010); Paulus, Potamitis, Rokas, and Tirado (2015)</i>	Nagy-Koppány, Csardi, and Németh (2017)

	<b>Ireland</b>	<b>Italy (Piedmont before Unification)</b>	<b>Lithuania</b>
<i>Legal family</i>	<i>Anglo-Saxon</i>	<i>French</i>	<i>French</i>
<i>Period of inclusion in the sample</i>	<i>1850-2015</i>	<i>1850-2015</i>	<i>1850-1910; 1995-2015</i>
<i>Independent (or with autonomous legal settings)</i>	<i>Yes</i>	<i>Yes</i>	<i>No</i>

1	<i>during the whole period</i>			
2	<b>1850</b>	<b>See England</b>	<b>Codice di commercio 1842 (Piedmont commercial code)</b>	<i>Part of the Russian Empire</i>
3	Features of legislation/changes introduced		First national legislation (Piedmont)	
4	<i>Sources</i>	<i>Brown (1900)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	
5	<b>1870</b>	<b>1857- Irish Bankrupt and Insolvent Act 1857 (20 &amp; 21 Vict c 60)</b>	<b>Codice di commercio 1865 (Commercial code 1865)</b>	<i>Part of the Russian Empire</i>
6	Features of legislation/changes introduced	First national legislation	First national legislation	
7	<i>Sources</i>	<i>Levy, (1859); Kennedy (2002)</i>	<i>Bonsignori (1986)</i>	
8	<b>1890</b>	<b>Bankruptcy Amendment Act 1872</b>	<b>1882 new commercial code</b>	<i>Part of the Russian Empire</i>
9	Features of legislation/changes introduced	Replaces previous legislation	Introduces new bankruptcy law	
10	<i>Sources</i>	<i>Kennedy (2002); Pajardi (1988); Brown (1900)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	
11	<b>1910</b>	<b>1908 Companies (Consolidation) Act; 1913 Companies Act; 1917 Companies (Particulars as to Directors) Act</b>	<b>Legge 24 maggio n. 197 (law 24 May n. 197) 1903</b>	<i>Part of the Russian Empire</i>
12	Features of legislation/changes introduced	Replaces previous company act	Firstly introduces pre-bankruptcy procedures	
13	<i>Sources</i>	<i>Kennedy (2002); Pajardi (1988)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	
14	<b>1928</b>	<b>no change</b>	<b>no change</b>	<b>No bankruptcy law as such</b>
15	Features of legislation/changes introduced	n.a.	n.a.	n.a.
16	<i>Sources</i>	<i>Kennedy (2002); Pajardi (1988)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	n.a.
17	<b>1938</b>	<b>no change</b>	<b>no change</b>	<b>No bankruptcy law as such</b>
18	Features of legislation/changes introduced	n.a.	n.a.	n.a.
19	<i>Sources</i>	<i>Kennedy (2002); Pajardi (1988)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	n.a.
20	<b>1950</b>	<b>no change</b>	<b>Regio decreto legge 16 marzo 1942 (Royal decree 16th March 1942)</b>	<i>Part of USSR (See USSR)</i>
21	Features of legislation/changes introduced	n.a.	Introduces re-launching procedures	
22	<i>Sources</i>	<i>Kennedy (2002); Pajardi (1988)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	
23	<b>1975</b>	<b>1963 Companies Act</b>	<b>no change</b>	<i>Part of USSR (See USSR)</i>
24	Features of legislation/changes introduced	Replaces previous legislation	n.a.	
25	<i>Sources</i>	<i>Kennedy (2002); Pajardi (1988)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	
26	<b>1995</b>	<b>Companies Act amended in 1990; Bankruptcy Act 1988</b>	<b>no change</b>	<b>Law on enterprise bankruptcy 1992</b>
27	Features of legislation/changes introduced	New procedures introduces for companies; replaces previous legislation (bankruptcy)	n.a.	First national legislation
28	<i>Sources</i>	<i>Kennedy (2002)</i>	<i>Bonsignori (1986); Pajardi (1988)</i>	<i>Republic of Lithuania - Law on enterprise bankruptcy 1992</i>
29	<b>2015</b>	<b>Companies Act amended in 1999; Company Law Enforcement Act, 2001 Personal Insolvency Act 2012</b>	<b>Decreto legge 9 gennaio 2006, n.5 (Law 9 January 2006, n.5); Decreto Legge 27 giugno 2015 n. 83 (Law 27th June 2015, n.83)</b>	<b>Enterprise bankruptcy law 2001; law on natural person bankruptcy 2013; Law on enterprise restructuring 2001</b>
30	Features	New personal bankruptcy law	Reforms made to pre-bankruptcy compositions	Replaces previous legislation
31	<i>Sources</i>	<i>McDonnell, Enraght-Moony and Cuddihy (2015)</i>	<i>Di Marzio (2015)</i>	<i>Republic of Lithuania - Enterprise bankruptcy law 20 March 2001, no. IX-216</i>
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41	<i>Legal family</i>	<b>Luxembourg</b>	<b>Netherlands</b>	<b>Norway</b>
42	<i>Period of inclusion in the sample</i>	<i>French</i>	<i>French</i>	<i>Scandinavian</i>
43		1850-2015	1850-2015	1850-2015
44				
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46				

<i>Independent (or with autonomous legal settings) during the whole period</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>
<b>1850</b>	<b>Code de commerce Commercial code)15 septmber 1807</b>	<b>1838 Commercial code</b>	<b>See Sweden</b>
Features of legislation/changes introduced	First national legislation	First national legislation	
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>De ruysscher (2018)</i>	<i>Sacre' and Audin (1874)</i>
<b>1870</b>	<b>Law April 14, 1886</b>	<b>No change</b>	<b>Act of Bankruptcy and of Administration of Bankruotcy Estates 6 June 1863.</b>
Features of legislation/changes introduced	Firstly introduces pre-bankruptcy procedures	n.a.	First national legislation
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>De ruysscher (2018)</i>	<i>Hambro (1914); Sgard (2006)</i>
<b>1890</b>	<b>no change</b>	<b>No change</b>	<b>No change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>De ruysscher (2018)</i>	<i>Hambro (1914); Sgard (2006)</i>
<b>1910</b>	<b>no change</b>	<b>Bankruptcy Act 1893</b>	<b>Act 6 may 1899</b>
Features of legislation/changes introduced	n.a.	Replaces previous legislation	Firstly introduces pre-bankruptcy procedures
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>De ruysscher (2018)</i>	<i>Hambro (1914); Sgard (2006)</i>
<b>1928</b>	<b>no change</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>Broeders (2015); Janssen, Terng, and van der Wulp (2002)</i>	<i>Snertingdalen and Tronshaug (2013); Pajardi (1988)</i>
<b>1938</b>	<b>Grand Ducal Decree May 24, 1935</b>	<b>Law of 7 February 1935, State Gazette 41</b>	<b>no change</b>
Features of legislation/changes introduced	Introduction of re-structuring procedures	Introduces composition as part of pre-bankrupcy proceedings	n.a.
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>De ruysscher (2018)</i>	<i>Snertingdalen and Tronshaug (2013); Pajardi (1988)</i>
<b>1950</b>	<b>no change</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>Broeders (2015); Janssen, Terng, and van der Wulp (2002)</i>	<i>Snertingdalen and Tronshaug (2013); Pajardi (1988)</i>
<b>1975</b>	<b>no change</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	<i>Gerber and Philippe (2002); Pajardi (1988)</i>	<i>Broeders (2015); Janssen, Terng, and van der Wulp (2002)</i>	<i>Snertingdalen and Tronshaug (2013); Pajardi (1988)</i>
<b>1995</b>	<b>No change</b>	<b>no change</b>	<b>Banckruptcy law 8 June 1984</b>
Features of legislation/changes introduced	n.a.	n.a.	Replaces previous law
<i>Sources</i>	<i>Gerber and Philippe (2002)</i>	<i>Broeders (2015); Janssen, Terng, and van der Wulp (2002)</i>	<i>Snertingdalen and Tronshaug (2013)</i>
<b>2015</b>	<b>no change</b>	<b>2008 Bankruptcy Act</b>	<b>no change</b>
Features	n.a.	Replaces previous legislation	n.a.
<i>Sources</i>	<i>Beissel and Binard (2015)</i>	<i>Broeders (2015)</i>	<i>Snertingdalen and Tronshaug (2017)</i>

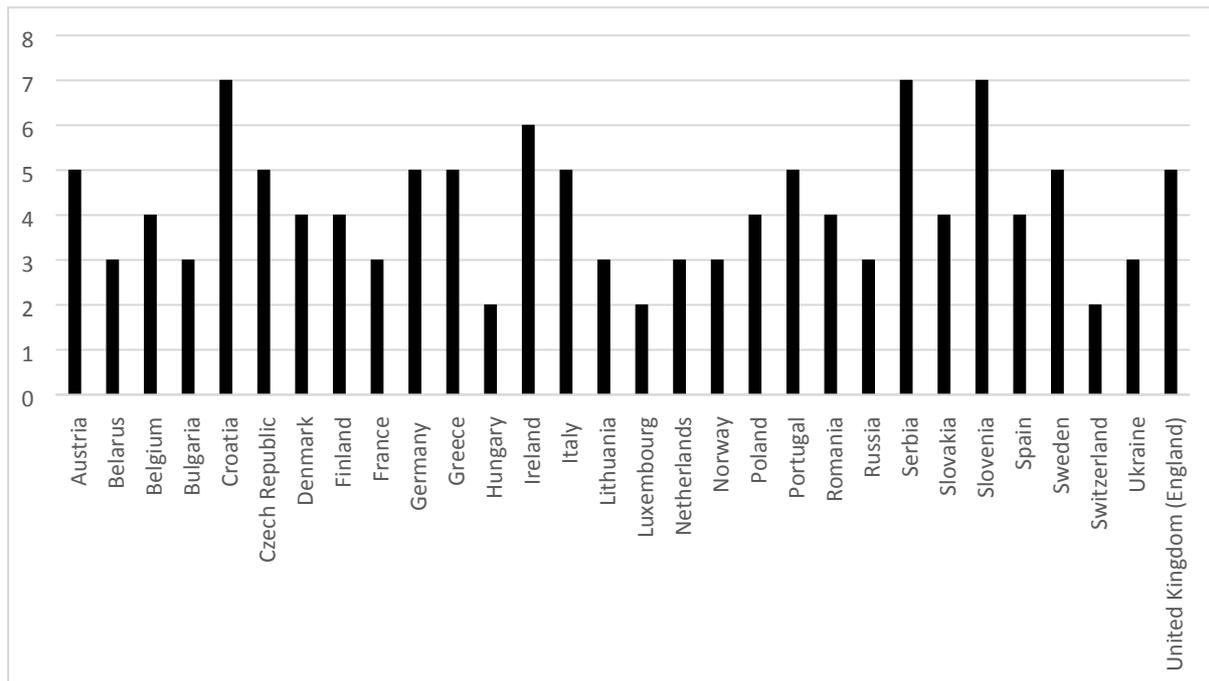
	<b>Poland</b>	<b>Portugal</b>	<b>Romania</b>
<i>Legal family</i>	<i>French</i>	<i>French</i>	<i>French</i>
<i>Period of inclusion in the sample</i>	1850-2015	1850-2015	1850-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	No	Yes	No
<b>1850</b>	<i>Divided between Russia, Austrai and Prussia (see Russia)</i>	<b>1833 commercial code</b>	<i>Turkish 1850 Commercial Code (see France)</i>
Features of legislation/changes introduced		First national legislation	
<i>Sources</i>	<i>Sacre' and Audin (1874)</i>	<i>Sgard (2006); Lecompte (1879)</i>	<i>Lyon-Caen et Renault (1906)</i>
<b>1870</b>	<i>Divided between Russia, Austrai and Prussia (see Russia)</i>	<b>No change</b>	<b>no change</b>
Features of legislation/changes introduced			n.a.
<i>Sources</i>	<i>Sacre' and Audin (1874)</i>	<i>Sgard (2006); Lecompte (1879)</i>	<i>Lyon-Caen et Renault (1906)</i>
<b>1890</b>	<i>Divided between Russia, Austrai and Prussia (see Russia)</i>	<b>Bankruptcy Code 1889</b>	<b>1887 commercial code</b>
Features of legislation/changes introduced		Replaces previous legislation	First national legislation
<i>Sources</i>	<i>Sacre' and Audin (1874)</i>	<i>Pereira, (2002)</i>	<i>Bufford, (1997)</i>
<b>1910</b>	<i>Divided between Russia, Austrai and Prussia (see Russia)</i>	<b>Bankruptcy code 1899 (then incorporated in the Code of Commercial Procedure 1905)</b>	<b>no change</b>
Features of legislation/changes introduced		Firstly introduces pre-bankruptcy procedures	n.a.
<i>Sources</i>	<i>Sacre' and Audin (1874)</i>	<i>Sgard (2006)</i>	<i>Bufford, (1997)</i>
<b>1928</b>	<b>no change</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced			n.a.
<i>Sources</i>	<i>Burniaux, (1995); Gerlach, H. (1998);</i>	<i>Pereira, (2002)</i>	<i>Bufford, (1997)</i>
<b>1938</b>	<b>1935 law</b>	<b>1935 new bankruptcy law</b>	<b>no change</b>
Features of legislation/changes introduced	First national legislation	Replaces previous law	n.a.
<i>Sources</i>	<i>Burniaux, (1995); Gerlach, H. (1998);</i>	<i>Pereira, (2002)</i>	<i>Bufford, (1997)</i>
<b>1950</b>	<b>no change</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced			n.a.
<i>Sources</i>	<i>Burniaux, (1995); Gerlach, H. (1998);</i>	<i>Pereira, (2002)</i>	<i>Bufford, (1997)</i>
<b>1975</b>	<b>no change</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced			n.a.
<i>Sources</i>	<i>Burniaux, (1995); Gerlach, H. (1998);</i>	<i>Pereira, (2002)</i>	<i>Bufford, (1997)</i>
<b>1995</b>	<b>1990 law</b>	<b>1993 - Decree Law Code of</b>	<b>Law 26 August 1995</b>
Features of legislation/changes introduced	Replaces previous legislation	Special Procedures for Company Recovery and Bankruptcy	Replaces previous law
<i>Sources</i>	<i>Burniaux, (1995); Gerlach, H. (1998);</i>	<i>Pereira, (2002)</i>	<i>Bufford, (1997)</i>
<b>2015</b>	<b>Bankruptcy Law 28 February 2003; Restructuring Law of 15 May 2015</b>	<b>new 2012 act</b>	<b>Law no. 85/2014, June 2014</b>
Features	Replaces previous one	(introduction of a new pre-bankruptcy procedure to save viable firms	Replaces previous law
<i>Sources</i>	<a href="https://thelawreviews.co.uk/chapter/1149945/poland">https://thelawreviews.co.uk/chapter/1149945/poland</a>	<i>Serra, C., (2012)</i>	<i>Hammond 2014</i>

	<b>Russia (USSR)</b>	<b>Serbia</b>	<b>Slovakia</b>
<i>Legal family</i>	<i>French</i>	<i>German</i>	<i>German</i>
<i>Period of inclusion in the sample</i>	1850-1910; 1995-2015	1850-1938; 1975-2015	1850-1938; 1995-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	Yes	Yes	No
<b>1850</b>	<b>Commercial code 1826</b>	<i>See Austria</i>	<i>Part of Hungarian administration (See Hungary)</i>
Features of legislation/changes introduced	First national legislation		
<i>Sources</i>	<i>Sgard (2006); Zavadskij (1912),</i>	<i>Cepec (2014)</i>	
<b>1870</b>	<b>No change</b>	<i>See Austria</i>	<i>Part of Hungarian administration (See Hungary)</i>
Features of legislation/changes introduced	n.a.		
<i>Sources</i>	<i>Sgard (2006); Zavadskij (1912),</i>	<i>Cepec (2014)</i>	
<b>1890</b>	<b>No change</b>	<i>See Austria</i>	<i>Part of Hungarian administration (See Hungary)</i>
Features of legislation/changes introduced	n.a.		
<i>Sources</i>	<i>Sgard (2006); Zavadskij (1912),</i>	<i>Cepec (2014)</i>	
<b>1910</b>	<b>Compositions introduced 1903</b>	<i>See Austria</i>	<i>Part of Hungarian administration (See Hungary)</i>
Features of legislation/changes introduced	Firstly introduces pre-bankruptcy procedures		
<i>Sources</i>	<i>Sgard (2006); Zavadskij (1912),</i>	<i>Cepec (2014)</i>	
<b>1928</b>	<b>No bankruptcy law as such</b>	<i>See Austria</i>	<i>See Hungary</i>
Features of legislation/changes introduced	n.a.		
<i>Sources</i>	<i>Burniaux, (1995), Williams and Wade, P., (1995)</i>	<i>Cepec (2014)</i>	<i>Cepec (2014)</i>
<b>1938</b>	<b>No bankruptcy law as such</b>	<b>The Insolvency Act (Stečajni zakon za kraljevinu Jugoslaviju) 1930 and Settlement and Recomposition of Debts outside of bankruptcy Act (Zakon o prinudnom poravnanju van stečaja) 1930</b>	<b>Bankruptcy law 1931</b>
Features of legislation/changes introduced	n.a.	First national legislation	First national legislation
<i>Sources</i>	<i>Burniaux, (1995), Williams and Wade, P., (1995)</i>	<i>Cepec (2014)</i>	<i>Pajardi 1988; Janda and Rakicova (2014)</i>
<b>1950</b>	<b>No bankruptcy law as such</b>	<b>No bankruptcy law as such</b>	<b>No bankruptcy law as such</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
<i>Sources</i>	<i>Burniaux, (1995), Williams and Wade, P., (1995)</i>	<i>Cepec (2014)</i>	<i>Janda and Rakicova (2014)</i>
<b>1975</b>	<b>No bankruptcy law as such</b>	<b>1965 - Insolvency Act of SFRY (Zakon o prisilni</b>	<b>No bankruptcy law as such</b>
Features of legislation/changes introduced	n.a.	Replaces previous law	n.a.
<i>Sources</i>	<i>Burniaux, (1995), Williams and Wade, P., (1995)</i>	<i>Cepec (2014)</i>	<i>Janda and Rakicova (2014)</i>
<b>1995</b>	<b>1992 - Russian Federation Insolvency (Bankruptcy) of Enterprises Act</b>	<b>Zakon o prisilni poravnavi, stečaju in likvidaciji, 1989</b>	<b>law 1991</b>
Features of legislation/changes introduced	Replaces previous legislation	Yougoslavian bankruptcy law; modifies previous law	Replaces previous law
<i>Sources</i>	<i>Burniaux, (1995), Williams and Wade, P., (1995)</i>	<i>Cepec (2014)</i>	<i>Janda and Rakicova (2014)</i>
<b>2015</b>	<b>2002 - Federal Law on insolvency (bankruptcy)</b>	<b>Law on bankruptcy No. 104/09 of 16 December 2009</b>	<b>2005 Law, amended 2011</b>
Features	Replaces previous law	Replaces previous law	Replaces previous law
<i>Sources</i>	<i>Brooks, (2002)</i>	<i>Janda and Rakicova (2014)</i>	<i>Janda and Rakicova (2014)</i>

	<b>Slovenia</b>	<b>Spain</b>	<b>Sweden</b>
<i>Legal family</i>	<i>German</i>	<i>French</i>	<i>Scandinavian</i>
<i>Period of inclusion in the sample</i>	1850-1938; 1975-2015	1850-2015	1850-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	No	Yes	Yes
<b>1850</b>	<b>Part of Austria (See Austria)</b>	<b>1829 commercial code</b>	<b>Bankruptcy Act 1830</b>
Features of legislation/changes introduced		First national legislation	First national legislation
Sources		Benito (1914); González de Zulueta, Carvajal, Vanden Abeele (2002)	Astrom, A. (1914); Fura-Sandström and Ehrner (2002)
<b>1870</b>	<b>Bankruptcy code September the 1st 1853</b>	<b>No change</b>	<b>1862 law</b>
Features of legislation/changes introduced	First national legislation	n.a.	Replaces previous legislation
Sources	Cupovic (1914)	Benito (1914); González de Zulueta, Carvajal, Vanden Abeele (2002)	Astrom, A. (1914); Fura-Sandström and Ehrner (2002)
<b>1890</b>	<b>no change</b>	<b>1885 new commercial code; Civil Procedural Rules 1881; Civil Code 1889</b>	<b>No change</b>
Features of legislation/changes introduced	n.a.	Replaces previous legislation	n.a.
Sources	Cupovic (1914)	Benito (1914); González de Zulueta, Carvajal, Vanden Abeele (2002)	Astrom, A. (1914); Fura-Sandström and Ehrner (2002)
<b>1910</b>	<b>Law 28 March 1897</b>	<b>No Change</b>	<b>No change</b>
Features of legislation/changes introduced	New Bankruptcy law	n.a.	n.a.
Sources	Cupovic (1914)	González de Zulueta, Carvajal, Vanden Abeele (2002)	Astrom, A. (1914); Fura-Sandström and Ehrner (2002)
<b>1928</b>	<b>See Austria</b>	<b>Act Ley de Suspensión de Pagos (Suspension of Payments Act) 1922</b>	<b>1921 Bankruptcy Law</b>
Features of legislation/changes introduced		Introduces new procedure	Replaces previous law
Sources	Cepec (2014); Cupovic (1914)	González de Zulueta, Carvajal, Vanden Abeele (2002); Pajardi (1988)	Fura-Sandström and Ehrner (2002); Pajardi (1988)
<b>1938</b>	<b>The Insolvency Act (Stečajni zakon za kraljevinu Jugoslaviju) 1930 and Settlement and Recomposition of Debts outside of bankruptcy Act (Zakon o prinudnom poravnanju van stečaja) 1930</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced	Replaces previous law	n.a.	n.a.
Sources	Cepec (2014)	González de Zulueta, Carvajal, Vanden Abeele (2002); Pajardi (1988)	Fura-Sandström and Ehrner (2002); Pajardi (1988)
<b>1950</b>	<b>No bankruptcy law as such</b>	<b>no change</b>	<b>no change</b>
Features of legislation/changes introduced	n.a.	n.a.	n.a.
Sources	Cepec (2014)	González de Zulueta, Carvajal, Vanden Abeele (2002); Pajardi (1988)	Fura-Sandström and Ehrner (2002); Pajardi (1988)
<b>1975</b>	<b>Insolvency Act of SFRY (Zakon o prisilni</b>	<b>no change</b>	<b>1970 Preferential Rights of Creditors Act; 1975 Companies Act</b>
Features of legislation/changes introduced	Replaces previous law	n.a.	Reforms previous law
Sources	Cepec (2014)	González de Zulueta, Carvajal, Vanden Abeele (2002); Pajardi (1988)	Fura-Sandström and Ehrner (2002); Pajardi (1988)
<b>1995</b>	<b>1993 Insolvency law (Zakon o prisilni poravnavi, stečaju in likvidaciji)</b>	<b>no change</b>	<b>1981 changes 1987 Bankruptcy Act; 1992 Salary Guarantee Act</b>
Features of legislation/changes introduced	Replaces previous law	n.a.	Replaces previous law
Sources	Cepec (2014)	González de Zulueta, Carvajal, Vanden Abeele (2002)	Fura-Sandström and Ehrner (2002); Pajardi (1988)
<b>2015</b>	<b>The financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act 2008</b>	<b>2002 Suspension of Payments law (Ley de Suspensión de Pagos); 2003 Bankruptcy Law (Ley Concursal). Amendments in 2014</b>	<b>1996 Company Reorganisation Act</b>
Features	Replaces previous law	Introduces/reforms procedures	
Sources	Cepec (2014)	Gutierrez et al. (2009)	Fura-Sandström and Ehrner (2002)

	Switzerland	Ukraine	United Kingdom (England and Wales)
<i>Legal family</i>	<i>German</i>	<i>French</i>	<i>Anglo-Saxon</i>
<i>Period of inclusion in the sample</i>	1850-2015	1850-1910; 1995-2015	1850-2015
<i>Independent (or with autonomous legal settings) during the whole period</i>	Yes	No	Yes
<b>1850</b>	<i>See France</i>	<i>Part of the Russian Empire (See Russia)</i>	<b>Bankruptcy law 1831</b>
Features of legislation/changes introduced			Reforms previous legislation
<i>Sources</i>	<i>Sacre' and Audin (1874); Pajardi (1988)</i>		<i>Lester (1994); Brown (1900)</i>
<b>1870</b>	<i>See France</i>	<i>Part of the Russian Empire (See Russia)</i>	<b>No Change</b>
Features of legislation/changes introduced			n.a.
<i>Sources</i>	<i>Sacre' and Audin (1874); Pajardi (1988)</i>		<i>Lester (1994); Brown (1900)</i>
<b>1890</b>	<b>Federal Bankruptcy law 1889</b>	<i>Part of the Russian Empire (See Russia)</i>	<b>Bankruptcy Act 1883; Deeds of arrangement Act 1887; The Companies (Winding-up) Act 1890 (53 &amp; 54 Vict c 63)</b>
Features of legislation/changes introduced	First national legislation		Replaces bankruptcy law/firstly introduces pre-bankruptcy procedures; firstly introduces re-launching procedures
<i>Sources</i>	<i>Pajardi (1988)</i>		<i>Lester (1994); Brown (1900)</i>
<b>1910</b>	<b>No change</b>	<i>Part of the Russian Empire (See Russia)</i>	<b>No Change</b>
Features of legislation/changes introduced	n.a.		n.a.
<i>Sources</i>	<i>Pajardi (1988)</i>		<i>Lester (1994)</i>
<b>1928</b>	<b>No change</b>	<i>Part of USSR (see USSR)</i>	<b>Bankruptcy Act 1914; Deeds of arrangement Act 1914</b>
Features of legislation/changes introduced	n.a.		Replaces previous legislation
<i>Sources</i>	<i>Pajardi (1988)</i>		<i>Lester (1994); Levi and Moore (1937)</i>
<b>1938</b>	<b>No change</b>	<i>Part of USSR (see USSR)</i>	<b>Company act 1929</b>
Features of legislation/changes introduced	n.a.		Replaces previous legislation
<i>Sources</i>	<i>Pajardi (1988)</i>		<i>Levi and Moore (1937)</i>
<b>1950</b>	<b>No change</b>	<i>Part of USSR (see USSR)</i>	<b>No change</b>
Features of legislation/changes introduced	n.a.		n.a.
<i>Sources</i>	<i>Pajardi (1988)</i>		<i>Walters (2005)</i>
<b>1975</b>	<b>No change</b>	<i>Part of USSR (see USSR)</i>	<b>No change</b>
Features of legislation/changes introduced	n.a.		n.a.
<i>Sources</i>	<i>Pajardi (1988)</i>		<i>Walters (2005)</i>
<b>1995</b>	<b>No change</b>	<b>Law July 1st 1992</b>	<b>Insolvency Act 1986</b>
Features of legislation/changes introduced	n.a.	First national legislation	Replaces previous legislation
<i>Sources</i>	Rohde (2015)	<i>Block (1997); Biryukov, (2007)</i>	<i>Walters (2005)</i>
<b>2015</b>	<b>2014 Changes to DEBA (Debt enforcement and bankruptcy Act)</b>	<b>Law on Restoring Debtor Solvency or Declaring Bankruptcy 18 January 2013</b>	<b>Enterprise Act 2002</b>
Features	Modifies restructuring procedures	Replaces previous law	Introduces new procedures
<i>Sources</i>	<i>Rohde (2015)</i>	<i>Teklyuk and Tryfonova, (2015)</i>	<i>Walters (2005)</i>

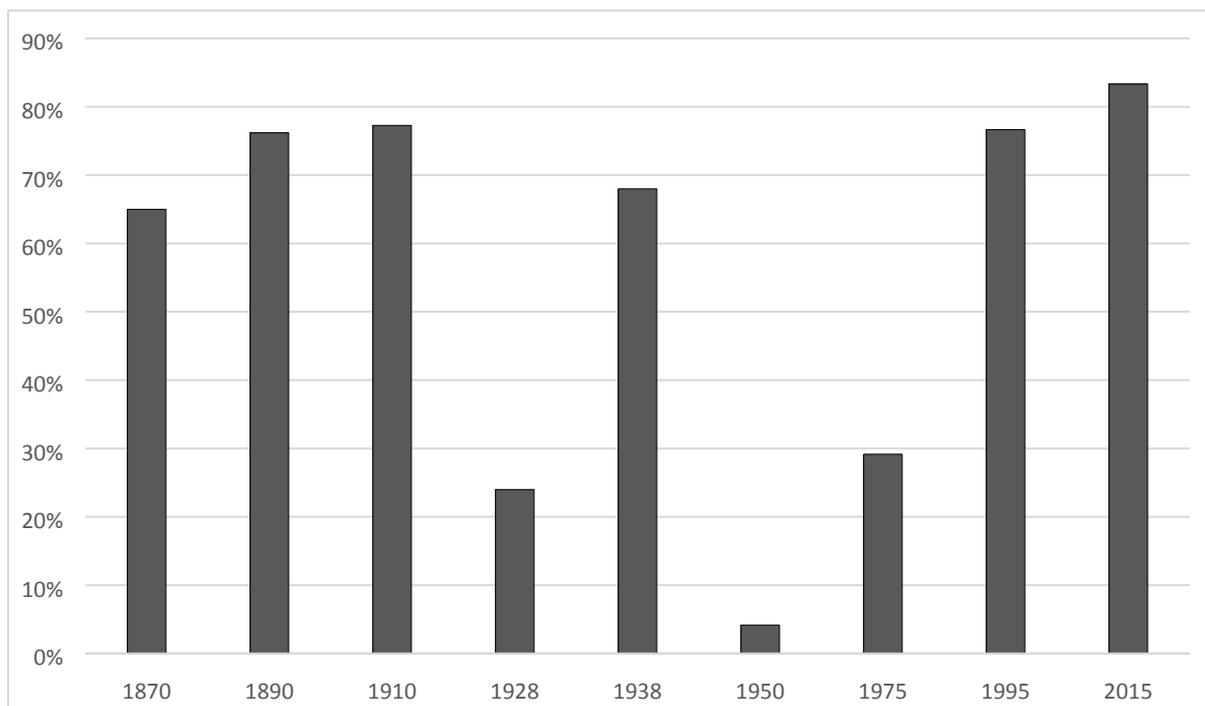
Figure 1. Number of total changes to bankruptcy law by country: 1870-2015



**Note:** change defined as: 1) provision of new legislation replacing the previous one; 2) introduction of a pre-bankruptcy or re-launching procedure, when distinct from the introduction of a bankruptcy law; 3) changes in one of these aspects: possible outcomes of procedures; opening of the procedure; inclusion of different types of debtors; ex-ante conditions.

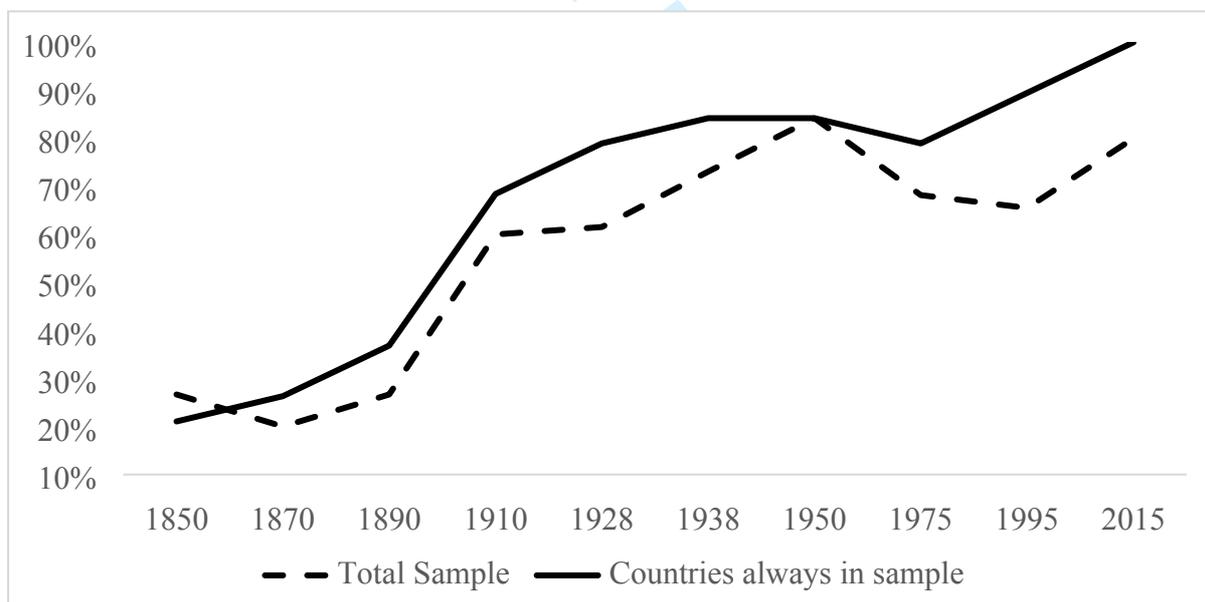
**Data sources:** see text

Figure 2. Number of changes to bankruptcy per benchmark years as percentage of the number of countries included in the sample



Data source: see text

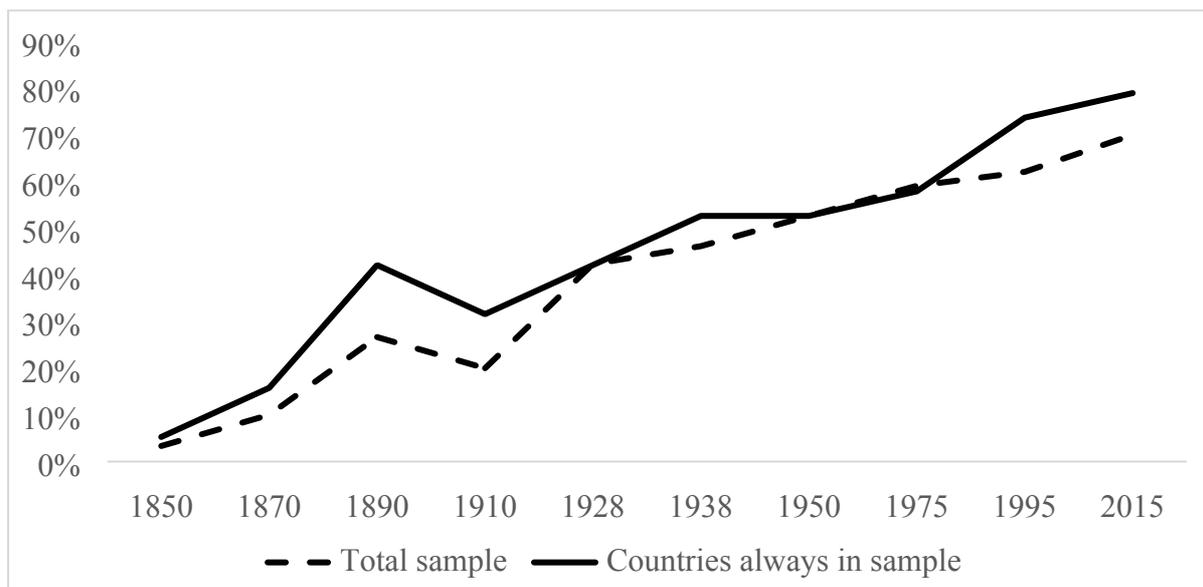
Figure 3. Share of countries having pre-bankruptcy procedures



Note: pre-bankruptcy procedures defined as solutions leading to either liquidation or requiring an agreement with (a variable majority of) creditors to be reached before the actual declaration of bankruptcy.

Data source: see text.

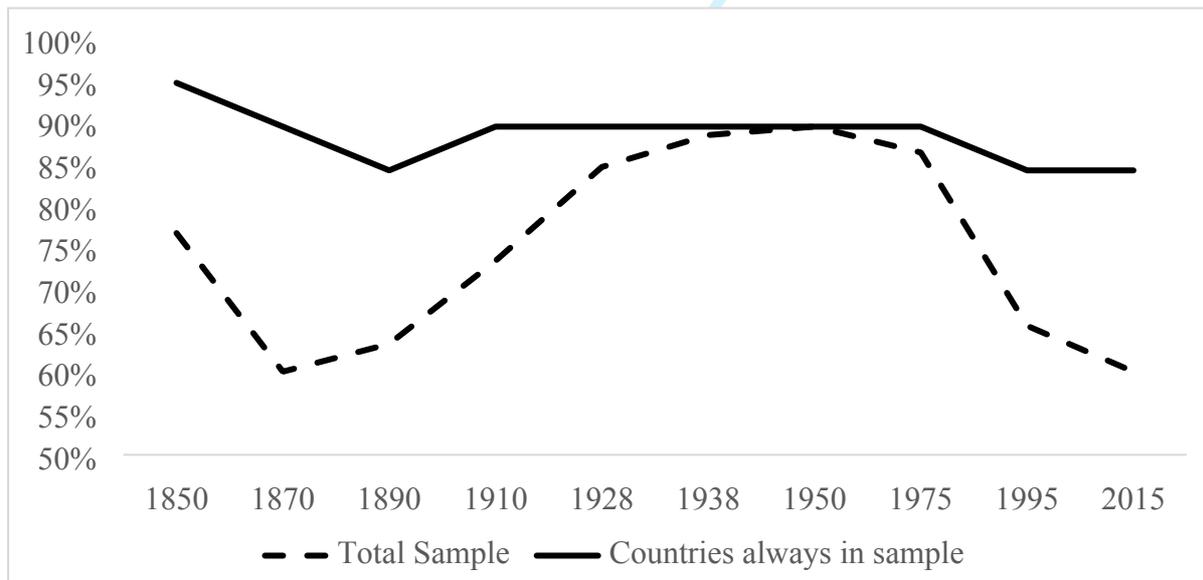
Figure 4. Share of countries having a re-launching procedure (including Moratorium)



**Note:** re-launching procedures defined as solutions to bankruptcy specifically aimed at keeping business alive and re-launching them.

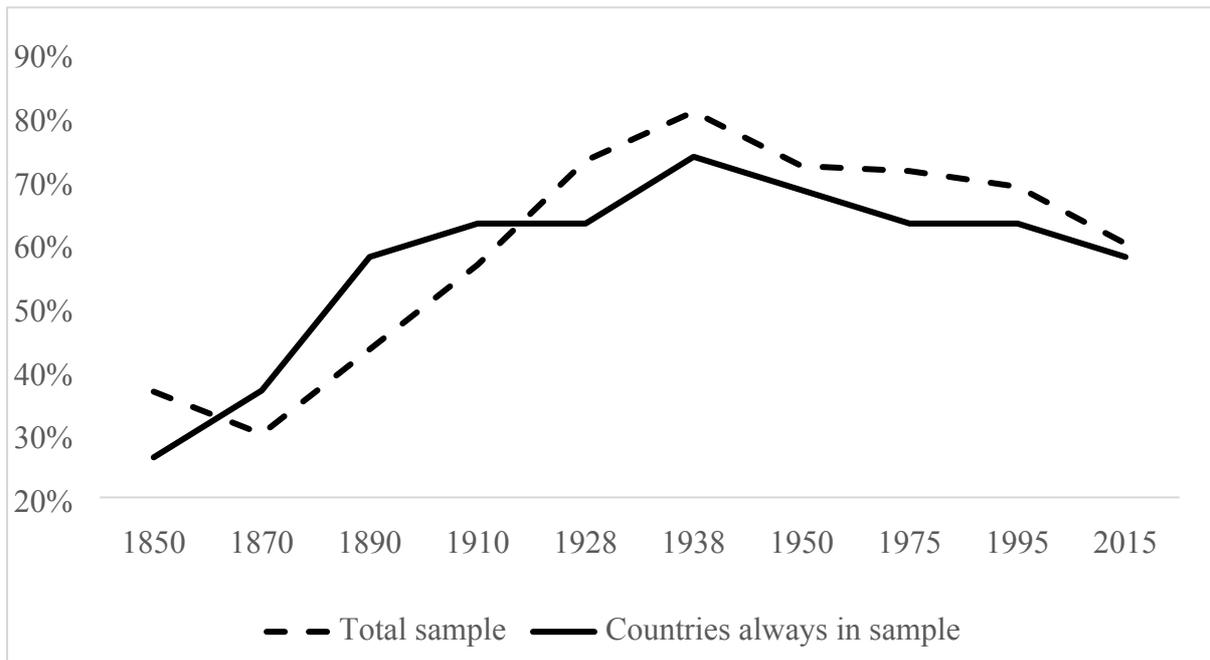
**Data source:** see text.

Figure 5. Share of countries whose bankruptcy procedure could lead to either liquidation or settlement



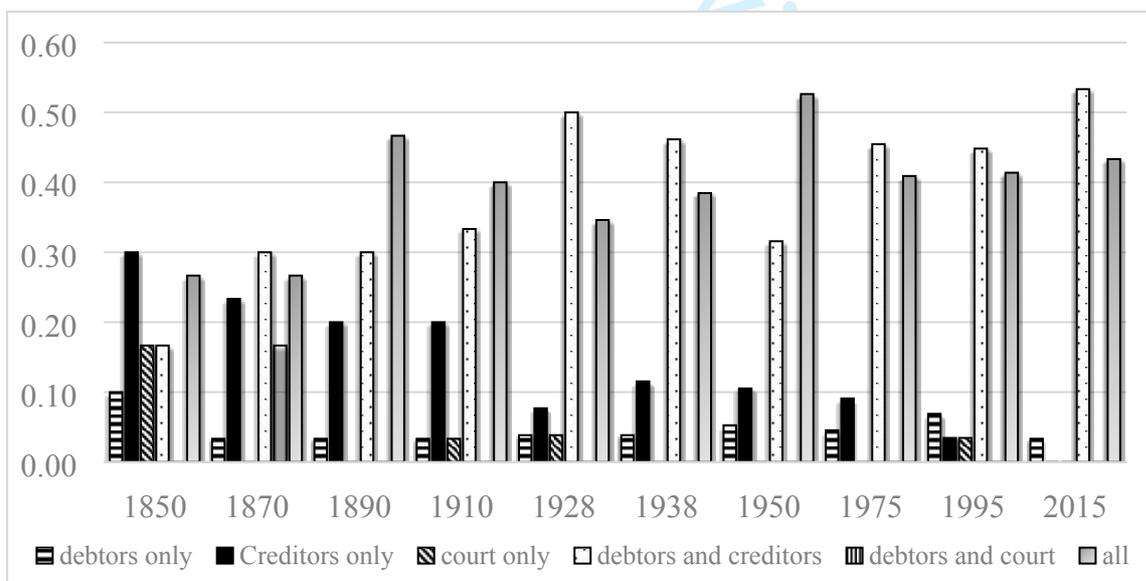
**Data source:** see text.

Figure 6. Share of countries whose bankruptcy procedure applied to all types of debtors



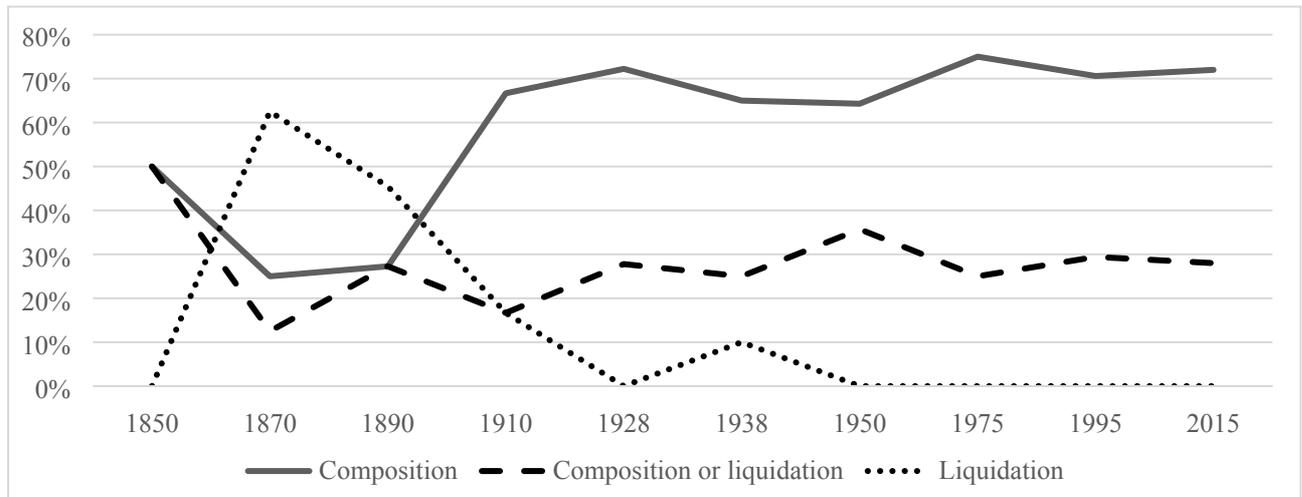
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Figure 7. Entities allowed to start bankruptcy procedures in various countries (as percentages of the number of countries considered).



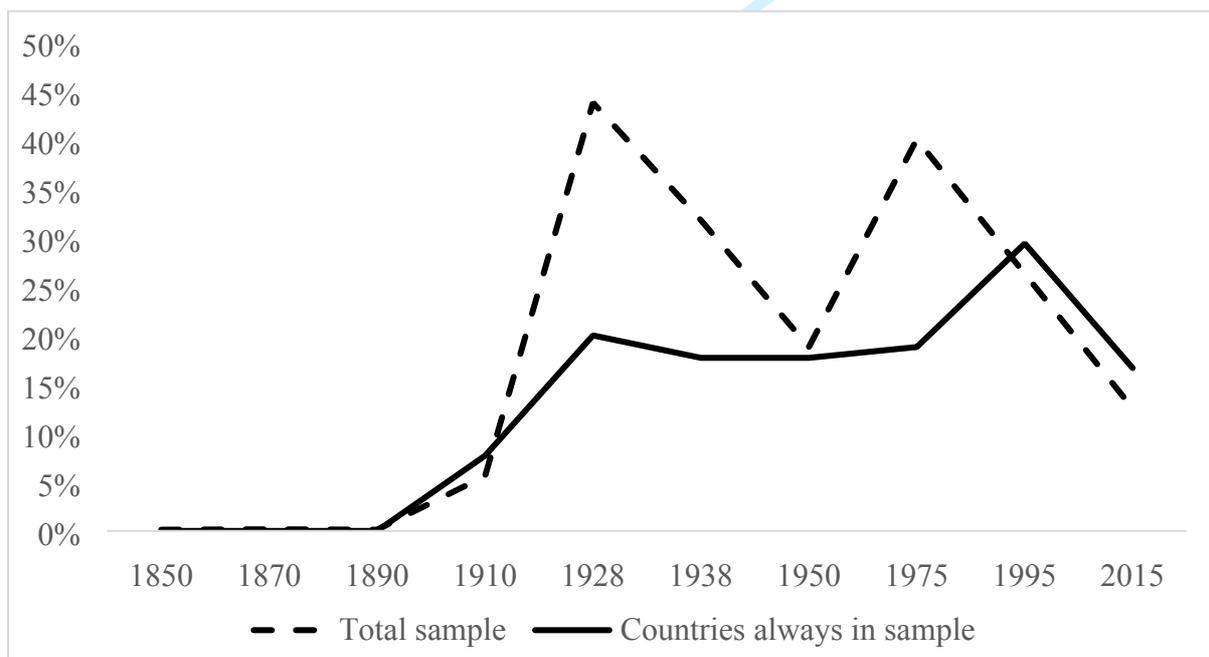
Data source: see text.

Figure 8. Possible outcomes of pre-bankruptcy procedures (as percentage of countries having a pre-bankruptcy procedure)



Data source: see text.

Figure 9. Share of countries in which pre-bankruptcy procedures were subject to ex-ante conditions (in percentage of the number of countries having a pre-bankruptcy procedure)



Source: See text.

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For Peer Review

*Table 1. Number of available outcomes in bankruptcy procedures by benchmark*

	1850	1870	1890	1910	1928	1938	1950	1975	1995	2015
<b>Mean</b>	2.2	2.4	2.6	2.9	3.1	3.4	3.2	3.2	3.6	4.3
<b>Median</b>	2	2	2	3	3	4	4	3.5	4	4
<b>min</b>	1	1	1	1	0	0	0	0	1	1
<b>max</b>	4	5	5	5	5	5	5	5	6	7

**Note:** number of outcomes (range between 0-7) defined as number of procedures multiplied by the number of possible outcomes under each procedure. For each benchmark we only include the countries which were independent.

**Data source:** see text.

*Table 2. Average number of available outcomes in bankruptcy procedures by country grouped in quartiles by GDP per capita*

<b>Quartiles of GDP per capita</b>	<b>1850</b>	<b>1890</b>	<b>1950</b>	<b>1995</b>	<b>2015</b>
<b>Q1</b>	2.7 (0.829)	3.7 (0.829)	4.2 (0.748)	4.7 (0.881)	5.0 (0.535)
<b>Q2</b>	2.2 (0.433)	2.5 (0.866)	3.2 (1.720)	4.6 (1.294)	4.7 (1.030)
<b>Q3</b>	2.0 (0.000)	2.2 (0.433)	3.3 (1.247)	2.7 (1.385)	4.4 (1.317)
<b>Q4</b>	2.0 (0.707)	2.0 (0.894)	2.2 (1.572)	2.6 (0.992)	3.1 (1.053)
<b>Number of countries</b>	16	17	22	29	30

**Note:** number of outcomes (range between 0-7) defined as number of procedures multiplied by the number of possible outcomes under each procedure. For each benchmark we only include the countries which were independent. Q1 is highest quartile by GDP. Standard deviation in brackets.

**Data source:** GDP per capita (2011 US\$): Maddison Project Database ([www.ggd.net/maddison/maddison-project/home.htm](http://www.ggd.net/maddison/maddison-project/home.htm)), version 2018. Bolt, Inklaar, de Jong and van Zanden (2018). Outcomes available in bankruptcy procedures, see Section I of the text.

Table 3. Average number of available outcomes in bankruptcy procedures by country grouping (all countries)

	1850	1870	1890	1910	1928	1938	1950	1975	1995	2015
Belgium	2	3	4	4	4	4	4	4	4	4
<i>Luxembourg</i>	2	3	3	3	3	5	5	5	5	5
Netherlands	3	3	3	3	4	4	4	4	4	5
Russia	1	1	1	2	0	0	0	0	2	3
<i>Ukraine</i>	1	1	1	2	0	0	0	0	3	5
<i>Lithuania</i>	1	1	1	2	0	0	0	0	4	4
<i>Belarus</i>	1	1	1	2	0	0	0	0		3
Denmark	2	2	2	3	3	3	3	3	6	6
Finland	2	1	1	1	1	1	1	1	2	3
Sweden	2	2	2	2	4	4	4	4	6	6
Norway	2	2	2	3	3	3	3	3	5	5
<i>Ireland</i>	4	5	5	4	4	4	4	3	5	5
England	4	4	3	5	5	5	4	5	6	6
Germany	2	2	2	3	3	4	3	4	3	5
Switzerland	2	2	5	5	5	5	5	5	5	4
Austria	3	5	3	3	5	5	5	5	5	5
<i>Hungary</i>	1	1	2	2	2	2	0	0	1	1
<i>Czech Republic</i>	3	5	3	3	5	3	0	0	4	5
<i>Slovakia</i>	1	1	2	2	2	3	0	0	3	4
<i>Croatia</i>	3	5	3	2	3	5	0	5	1	3
<i>Serbia</i>	3	5	3	3	5	4	0	4	2	4
<i>Slovenia</i>	3	5	3	2	3	4	0	3	1	2
France	2	2	4	5	5	4	5	5	5	5
Italy	2	2	2	3	3	4	4	4	4	4
Spain	2	2	2	2	3	3	3	3	2	4
Portugal	3	3	3	3	3	3	3	3	5	5
Greece	2	2	2	2	2	2	3	3	3	4
<i>Bulgaria</i>	2	2	2	1	1	3	0	0	3	3
<i>Romania</i>	2	2	3	3	3	3	3	3	2	3
<i>Poland</i>	1	1	1	2	2	4	4	4	4	7

**Note:** number of outcomes (range between 0-7) defined as number of procedures multiplied by the number of possible outcomes under each procedure. All countries included; in Italic counties which were not fully independent over the whole period

**Data source:** see text.