



State Comptroller | Annual Report 72A - Part One | 2021

Ministry of Justice

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# **State Actions to Secure its Rights Through Civil Enforcement**





## State Actions to Secure its Rights Through Civil Enforcement

### Background

In the day-to-day operations of the state, government bodies accumulate rights created by virtue of contracts, agreements, the provision of services and judgments, as well as rights to receive funds whose payment obligation has been determined by law. Civil enforcement is a general name for the use of the initiated civil tools and procedures of the State to secure its rights, to protect various protected purposes and values including protecting the rule of law and its enforcement, fulfilling obligations to the state, protecting state assets and lands, assisting in government policy and regulation, and optimal use of public money. Initiated civil enforcement has been defined as a central pillar in the strategy of the Civil Prosecution and in the positioning of the Prosecution at the core of maintaining the rule of law. The audit focused on mapping and locating the violation of state rights and examining the barriers that prevent proactive enforcement and optimal collection of debts by government bodies.



**Key figures**

**About NIS  
67.2  
billion**

The amount of the state's outstanding balances in the consolidated balance sheets and financial statements for 2019, of which the components of exchange and non-exchange transactions were approximately NIS 39 billion

**About NIS 6.9  
billion**

The amount of debts to the state approved for write-off by the High Committee for Compromises, Write-offs and Debt Arrangements in the Ministry of Finance, from the beginning of 2017 to mid-2020.

**About NIS  
215  
billion**

The amount of debts remaining for collection in the Government Collection Administration at the end of 2020. Since 2017, approximately NIS 212 million has been collected.

**About NIS  
5 billion**

The amount of the nominal debt to the Israel Land Authority, whose real value as of December 31, 2020, was NIS 15.3 billion.

**About NIS  
534  
million**

The total amount of municipal tax liability in 197 cases transferred to the Government Housing Administration in the Ministry of Finance in the years 2017-2019. After legal action, the outstanding tax liability was reduced to approximately NIS 133 million.

**98  
Integrated and  
complementary  
enforcement  
actions**

The number of enforcement actions conducted by the State Attorney's Office with the participation of additional law enforcement agencies in 2019 as part of round tables.

**184  
Initiated  
lawsuits**


The number of initiated civil lawsuits filed by the State Attorney's Office in 2019 in the total amount of approximately NIS 708 million. In the same year, 75 lawsuits were won in the courts in favor of the state in the total amount of NIS 290 million.

**About  
22,700  
Cases  
Defended**

The number of files opened by the State Attorney's Office in 2019, concerning proceedings not initiated by the state. According to the State Balance Sheet as of December 31, 2019, the provision for legal claims is approximately NIS 9.3 billion.




## Audit actions

 From February to December 2020, the State Comptroller's Office examined the issue of civil enforcement. The main audit was conducted at the State Attorney's Office, the Ministry of Finance and the Israel Land Authority, as well as at the Government Collection Administration, the Ministry of Defense, the Ministry of Education, the Ministry of Justice, the Police, the Government Companies Authority, the National Fire and Rescue Authority, the Volcani Institute, the Ministry of Welfare, the Ministry of Health, the Ministry of Tourism, the Ministry of Economy and Industry and the Ministry of Environmental Protection. During the audit, the State Comptroller's Office sent questionnaires on the subject to 42 Director-Generals and heads of government entities for the purpose of gathering information on the subject from these government entities and analyzing it. Responses to the questionnaire were received on time from 34 entities (81% of the bodies to which the questionnaire was sent).

### Steps for optimal use of civil enforcement



## Key findings

 **Realization of the state's collection and claims potential** - In the consolidated financial statements of the State of Israel for 2019, the amount of financial liabilities owed to the state was approximately NIS 67 billion, of which the exchange and non-exchange transactions component was approximately NIS 39 billion. In the years 2017 to June 2020, the High Committee for Compromises, Write-Offs and Debt Arrangements in the Accountant General's Division (hereinafter - the AGD) approved requests for write-offs amounting to NIS 7 billion, and the entities' answers to the audit questionnaire show



that the amount of the aggregate debt approved for write-off in the Ministries' write-off committees during this period was approximately NIS 1.9 billion. These data demonstrate unrealized collection and claim potential.

- 🔴 Risk mapping procedure** - 68% of the entities responding to the audit questionnaire did not conduct a risk survey regarding enforceable rights and 85% did not formulate a policy to prioritize the possible actions to be taken. In 42% of the respondent entities, there is no structured and systematic process for locating, mapping and analyzing debts owed to the ministry and violation of its rights. In the absence of mapping, the necessary basis for orderly and ongoing action to enforce rights is lacking, and the ability to perform optimal collection and enforcement is impaired.
- 🔴 The State Attorney's method of operation** - The selection of events and legal cases in which sometimes far-reaching civil enforcement tools are used is not done systematically: there is a lack of an orderly methodology for identifying targets, prioritizing and selecting targets, and the targets against which enforcement operations are directed are selected by the entities not according to an orderly policy or clear enough criteria.
- 🔴 Mechanism for locating breaches of contractual agreements** - In 41% of the bodies responding to the audit questionnaire, there is no structured mechanism for uncovering the obligations and breaches of agreements, and there is no valid work procedure for locating and mapping debts and breaches. There is concern that some of the debts to government bodies are not detected, and breaches of agreements are not reported and addressed, thus preventing the bodies' enforcement capacity, avoiding the possibility of creating deterrence against breaches of agreements and causing financial losses to the state.
- 🔴 Potential for filing civil lawsuits initiated in connection with criminal proceedings** - The State Attorney's Office does not have a uniform and orderly mechanism for locating and identifying criminal proceedings which have civil and administrative enforcement potential. There is also a lack of a technological interface between the criminal prosecutor's office and the civil prosecutor's office. In 2019, nine civil lawsuits were filed on the basis of criminal proceedings, including three "supplementary lawsuits". In the same year, proceedings ended in 4,408 criminal cases conducted by the State Attorney's Office and 84% of the defendants were convicted. In the absence of such a mechanism, it is not possible to locate many of the cases that may be relevant for filing of civil claims.
- 🔴 Avoidance of collection proceedings and filing of civil lawsuits - civil enforcement against terrorists** - The audit revealed that in the years 2018-2019 no civil lawsuits were filed to claim reimbursement for money paid by the state as compensation to victims of terrorism. It should be noted that in these years 374 victims were confirmed for 93 incidents of hostilities. In 2019, the National Insurance Institute paid 5,237 victims of hostilities, payments totalling NIS 540 million.



The cases of violence that occurred during May 2021 caused the state to incur expenses for the damage to public property, and it is even expected to pay the victims of hostilities compensation through the Tax Authority's Compensation Fund. These cases highlight the need for civil enforcement action, alongside criminal proceedings, and in particular against those convicted in criminal proceedings, to cover the funds to be paid from the public treasury.

**Initiated claims by the Israel Land Authority** - On December 31, 2020, the debts to ILA amounted to NIS 15.3 billion. In the years 2017-2020, the number of cases that ILA transferred to legal representation for filing initiated lawsuits decreased by 31%. In 2019, the ILA filed 30 lawsuits through the State Attorney's Office, compared to 57 in 2018.

**Use of dispute resolution mechanisms between the state and municipalities** - The number of cases brought to dispute resolution before the district commissioners in the Ministry of the Interior in 2017-2019 is not large and amounted to several dozen cases, most of which focused on litigation brought by local authorities regarding the property taxes of government offices. The lack of timelines for the procedure delays the resolution of disputes.

**Use of civil enforcement measures** - Among the barriers that prevent the effective use of civil enforcement measures: the state delays in taking action to preserve its rights in a manner that may result in such action being blocked by the statute of limitations and lead to violation of state rights and property and to economic losses of public money; lack of adequate documentation raises difficulties in gathering evidence and formulating it in preparation for an initiated civil lawsuit; lack of economic viability in the execution of enforcement and collection proceedings; bureaucratic difficulties and lack of adequate personnel to carry out enforcement and collection actions.









The risk management project in civil enforcement led by the State Attorney's Office, which began in 2018 and is being implemented for the first time in the field should be positively noted. It is to be hoped that upon its completion, the State will be provided with an effective tool for the planned and intelligent management of civil enforcement resources, so that it is not done at random.

The "debt collection mapping" process carried out by government bodies under the direction of the Ministry of Finance, in which 54 government bodies have mapped about 5,005 types of debts and liabilities, as well as the actions of the Israel Land Authority in 2018-2019 to streamline collection procedures, should be viewed positively.



## Key recommendations

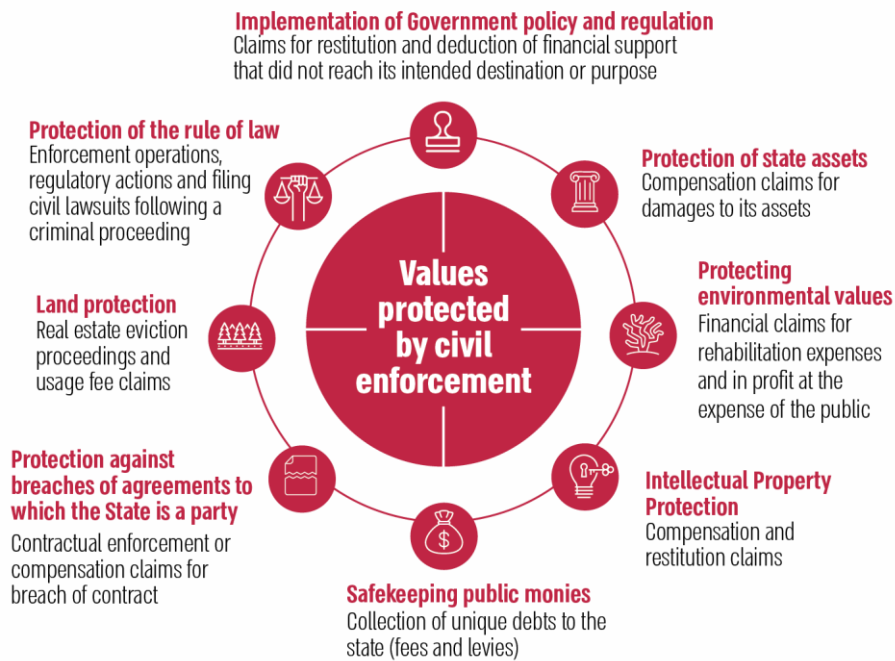
-  It is recommended that the Ministry of Finance (the Accountant General branch) formulate a directive for all government bodies to conduct risk management procedures in their ministries, and that the Ministry of Justice accompany this procedure with supplementary professional guidance to legal advisers in government bodies. It is recommended that the Accountant General hold periodic meetings regarding the mapping of risks in all government ministries, formulate a government policy to prioritize collection and enforcement, and conduct a lesson-learning process among the ministry's accountants regarding ongoing lawsuits and concluded proceedings.
-  It is recommended that in view of the amount of debt as reflected in the state's financial statements, approximately NIS 39 billion, the Knesset formulate a multi-year plan and targets for reducing the debt owed to the State of Israel and act to reduce the state's debt balances, in consultation with relevant bodies in the Ministry of Justice (Enforcement and Collection Authority, Advice and Legislation Unit and the State Attorney's Office). For this purpose, the Accountant General should inform the Ministry of Justice each year of the status of the implementation of the plan and a breakdown of the outstanding balances, and in particular doubtful debts and static balances, which are recorded in the state's financial statements. These data will also help formulate the Ministry of Justice's work plans in the field of civil enforcement and collection.
-  It is proposed that the Ministry of Justice, in cooperation with the Ministry of Finance - the Accountant General branch - examine the creation of a mechanism for resolving disputes regarding violation of rights and payment of debts in cases where both parties are government bodies, including determining the responsible entity and the methods of repaying the debts, and work to regulate these debts and collect them.
-  It is recommended that the State Attorney's Office, and the Civil Enforcement Unit in particular, outline a uniform measurement method for all State Attorney's Offices that reliably reflects the range of activities carried out in the field of civil enforcement and their outcomes in order to obtain a more accurate picture of achieving its objectives.
-  It is proposed that the State Attorney's Office work to establish a valid work procedure, and examine the appropriate cases for supplementary civil enforcement in connection with criminal proceedings to protect the rights of the State. To this end, it is recommended to establish criteria for selecting the appropriate cases for civil enforcement and to establish a mechanism for locating all criminal cases that ended in a conviction, which meet these criteria.
-  It is recommended that the Ministry of Justice issue a directive to the legal bureaus in government bodies regarding the need for strict documentation of moves and preservation of documents, and especially those concerning the interests of the state, and regarding the documentation method. It is recommended to establish official forms





that will outline the process of building an evidence file based on a sufficient evidentiary infrastructure in preparation for a claim in an initiated legal process. It is also recommended that the State Attorney's Office conduct a mapping of the duration of the handling of cases transferred to its treatment, locate the causes of the duration of the treatment and act to shorten it.

**Examples of protected values and civil enforcement tools used to preserve them**





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## Summary

A decade ago, the State Attorney's Office decided to begin a process by which the state would initiate more legal action in order to preserve its rights; for the purpose of promoting the issue, the State Attorney's Office established the Civil Enforcement Unit. However, the picture that has emerged in the report requires the state, and especially the State Attorney's Office, to analyze its capabilities and examine how to implement this policy, since even after a decade, the state's main focus in the area of civil law is defending the cases in which it is sued.

Effective and complete civil enforcement requires the involvement of all relevant entities in government bodies, including the directors of the bodies and legal, accounting and professional entities. Due to the complexity of operating civil enforcement tools and preparing initiated lawsuits, full cooperation of government bodies with the Ministry of Finance and the Ministry of Justice is required.

In light of the policy of proactive enforcement and protection of the rights of the state, it is appropriate that government bodies, law enforcement and prosecution bodies examine how to overcome the barriers, and refine their capabilities, to improve collection and enforcement.