

‘Ukraine vs UK: Limitation Period for Transaction Avoidance: (Un)limiting the Possibilities of Asset Recovery in Insolvency?’

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It is common ground that the possibility to avoid transactions is a powerful asset recovery instrument for insolvency practitioners to increase the insolvency estate for a *pari passu* distribution for the benefit of the general body of creditors. Without diminishing the role of the transaction avoidance regime for insolvency process, the paper aims to raise concerns as to the effectiveness of this regime (instrument) from a more practical and ‘procedural’ angle - by assessing a key impediment, which may disturb a successful transaction avoidance claim, should a claim be time-barred. Like any claim, it has to comply with certain rules for it to be successful. Limitation period is one of those that may affect the prospect of an ultimate success.

In this connection, the paper pursues to make a comparative analysis of approaches used in Ukraine and the UK when considering transaction avoidance claims (i.e. avoiding the preference, or a transaction at an undervalue, or transactions defrauding creditors). Key consideration is given to the following issues: a) what is the length of the limitation period for bringing such claims; and b) when does a limitation period start to run (i.e. the accrual of a cause of action)?

These questions are critical, particularly in situations when faced with a *non-bona fide* insolvency practitioner that fails to act timely.

This paper invites a debate regarding the need for Ukraine to have an ‘extended’ limitation period by way of the UK example so to have effective asset recovery mechanisms in practice, than just on paper.