

Аналогічний шлях реформування також підтримує Ю. Кривицька, яка зазначає, що зараз для розвитку української економіки важливе значення мають іноземні інвестиції і саме прокредиторське законодавство зробить Україну більш привабливою для інвесторів, адже вони вимагають гарантій для своєї діяльності.

Існуюча на сьогоднішній день в Україні модель у рівних долях задовольняє інтереси як боржника, так і кредитора, тобто вона має ознаки нейтральної. Слід зазначити, що на сучасному етапі розвитку більшість країн світу обирає саме цю модель, закріпивши пріоритет неліквідних процедур, зокрема мирової угоди, що має на меті збереження соціально й економічно значущих підприємств, боротьбу з проблемами зайнятості населення та фіктивним банкрутством.

Підводячи підсумки можна зробити висновок, що існуючі правові моделі регулювання неспроможності повинні бути взяті на розгляд українського законодавця з метою їх оптимізації до ринкової ситуації у країні. На наш погляд, саме справедливий режим, запропонований О.М. Бірюковим, є відображенням готовності України до створення рівних умов та конкурентного середовища, зокрема для нерезидентів. У цьому контексті наближення законодавства України про банкрутство до стандартів ЄС та загальноновизнаних світових принципів у цій сфері є важливим чинником успішності проведення ринкових реформ та створення умов для інтеграції економіки України у світове та європейське господарство.

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TERMINATION OF INTERNATIONAL COMMERCIAL AGENCY AGREEMENT

Urgency of scientific article is caused by frequent using of Commercial Agency Agreement in the legal relation in foreign trade for last ten years; and also by existence of some special features and problems which appear on the way of establishment of unified legal regime in the sphere of Commercial Agency Agreement's using in international legal relationship.

The aim of this work is to analyze specific features of international commercial agency agreement's termination.

Council Directive on the coordination of the laws of the Member State relating to self-employed commercial agents № 86/653/EEC on December, 18, 1986, is aimed on regulation of main principles in relation between principal and agent. Also it pays brief attention to questions about termination of commercial agency agreement. After signings of this Directive Member States adopted and introduced in national legislation special legal acts, which exclusively aimed on commercial agency agreement's regulation

(e.g.: Belgium Commercial Agency Agreement Act; Swedish Commercial Agency Act on May,2,1991; Federal Austrian Law regarding the legal status of self-employed Commercial Agents,1993; (Denmark) Act on Commercial Agents and Travellers on May,2,1990, etc).

Directive establishes that the order of termination is directly depended of whether the agreement is entered on certain period or for uncertain terms. Also it regulates an order of definition of the duration of the contract. According to the art. 14 an agency contract for a fixed period which continues to be performed by both parties after that period has expired shall be deemed to be converted into an agency contract for an indefinite period. Such provision has been reproduced in most legislative acts of European countries; through it is not imperative norm of Directive.

So, in the cases, where an agency contract is concluded for an indefinite period either party may terminate it by notice. The period of notice shall be one month for the first year of the contract, two months for the second year commenced, and three months for the third year commenced and subsequent years. The parties may not agree on shorter periods of notice. Member States may fix the period of notice at four months for the fourth year of the contract, five months for the fifth year and six months for the sixth and subsequent years. They may decide that the parties may not agree to shorter periods.

Denmark Act on Commercial Agents and Travellers in part 22(1) establishes that the principal and the commercial agent may terminate the agreement giving one months notice during the first year of the term of the agreement. The period of notice shall be extended by 1 month for each year or fraction of a year for which the agreement has existed. However, the notice shall not exceed 6 months unless it is agreed otherwise, analogical provisions are considered in art.18.&1.of Belgium Commercial Agency Agreement Act. Also, sect. 84 — 92c German Commercial Code established that it may be terminated during the first year of the contract by giving one-month notice, during the second year of the contract by two-month notice, and during the third to the fifth year of the contract by three-month notice. After the contract has run for five years, it may be terminated by giving six-month notice.

Part 3, art.15 of Directive seems badly thought over for most legal scholars. Because by according for Member States a right to establish additional notion's terms interferes with achievement of the main aim — harmonization of the legislation of the state-participants. For example in Belgium under Belgium Commercial Agency Act the commercial agency contract concluded for uncertain terms, continues to be executed after six years it would be six-months legitimate term for notion about contract's termination. However in France under Law relating the relationship between commercial agent and it would be three-month term.

The Directive of EU does not mention the general bases of the termination of bilateral agreements. But these points are considered in «Commercial

Agency: Guide for Drafting up Contracts» developed by the International Chamber of Commerce.

Directive is not exactly providing the equality of contract's parties. As in part 4 art. 15 — if the parties agree on longer periods, the period of notice to be observed by the principal must not be shorter than that which is observed by the commercial agent. But it may be interpreted on the contrary. But some countries provided equality of contract's parties. Part 3, sect. 89 of German Commercial Code says that a contract entered into for a fixed term which is continued by both parties after expiration of such fixed term shall be deemed to have been extended for an indefinite period.

Art. 17 of Directive is about agent's right for compensation in the case of termination of relation with principal. This article provides for Member States right of choice between two alternatives. First is about granting of compensation for the agent's contribution to maintenance of principal's reputation. Other is about «compensation for damage» — for loss of agency (representation) relations.

So, first alternative means that the commercial agent shall be entitled to an indemnity if and to the extent that: he has brought for principal new customers or has significantly increased the volume of business with existing customers and the principal continues to derive substantial benefits from the business with such customers, and the payment of this indemnity is equitable having regard to all the circumstances and, in particular, the commission lost by the commercial agent on the business transacted with such customers. Member States may provide for such circumstances also to include the application or otherwise of a restraint of trade clause.

For last 10 years commercial agency agreements received the fixed legal regulation on the national level as well as on the international. However despite such progressive development some norms of the international documents should be specified and more unified. It is necessary for maintenance of identical conditions of termination of the commercial agency agreement concluded between the foreign parties.

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ІНСТИТУТ МІЖНАРОДНОГО УСИНОВЛЕННЯ В МІЖНАРОДНОМУ ПРИВАТНОМУ ПРАВІ

Питання виникнення та становлення інституту міжнародного усиновлення в Україні має досить важливе значення. Усиновлення міцно увійшло до життя нашого суспільства і є, в певному значенні, мірилом гуманності будь-якого суспільства і держави. Особливий інтерес викликає усиновлення українських дітей іноземними громадянами. Якщо у середині 40-х рр. XX ст.