проблем, які постійно виникають. Щодо негативних елементів даних організацій будуть і недостатність компетентних осіб у здійсненні благодійництва через запровадження карантинних мір, і зловживання даною діяльністю, і неточності законодавства, які б чітко регламентували її, хоча за цей рік багато внесено нововведень, до чинного законодавства, враховуючи теперішній стан, який потребує впровадження змін, особливо санкцій в умовах спалаху і поширення COVID-19 задля подальшого мінімізування поширеності тощо.

ЛІТЕРАТУРА:

1. Асадчев Ю.Проблемні аспекти діяльності благодійних організацій в Україні та шляхи їх вирішення. URL: https://uz.ligazakon.ua/ua/magazine_article/EA010473

2. Про благодійну діяльність та благодійні організації: Закон України. Відомості Верховної Ради (ВВР), 2013, № 25, ст.252

Denysiuk Kseniia, Stoyanova Vladyslava, Chuprina Kateryna,

3-year students, Faculty of the International Legal Relations

National University «Odessa Law Academy»

Scientific supervisor: Prof. Chanysheva A. R.

RECENT CHANGES IN GERMAN CIVIL LAW INFLUENCED BY THE COVID-19 PANDEMIC

In circumstances of global pandemic a lot of changes were imposed to secure the nation's wellbeing. Relevantly, the upcoming changes in civil legislation of Germany were strongly influenced by that, meaning temporary changes may be prolonged or become permanent, concerning such aspects as financial relief, right of refusal of a performance, leasing, loans and communications.

The civil code of Germany – Bürgerliches Gesetzbuch (Civil Law Book) abbreviated as BGB officially active since 1900, serving a jurisdiction template for a number of countries. It is regularly updated according to the tendencies prescribed by international law and general changes in the national order, recent ones being imposed to relieve the financial strain and other inconveniences occurring due to the Covid-19, that concerned civilians, small and mini businesses as well as people performing entrepreneurial activity under other lawful provisions, as well as obvious hardship of medical services [2].

Major role played the adoption of a specific law to mitigate the consequences of pandemic in civil, insolvency and criminal procedural law: «Gesetz zur

Abmilderung der Folgen der COVID-19-Pandemie im Zivil-, Insolvenz- und Strafverfahrensrecht» on May 25th , marked as the fastest implementation in recent years. Its main objectives included: aid the continuation of businesses that became insolvent or are experiencing economic difficulties as a result of the pandemic with proposed insolvency legislation, extending time frames to allow entrepreneurs eliminate insolvency, in particular with state aid or restructuring arrangements, and furthermore, limiting liability risks and risks regarding claw-back claims. According to the new legislation, obligation to file for insolvency is suspended until 30th of September 2020 [3].

Contrary to the expectations, under mentioned law loans applied during crisis and suspension period will not be deemed legally disadvantageous or prohibited as an opportunity to escape failing for bankruptcy, granted within the government and aid programs. Thus, it is a big commitment to sustain a small businesses and maintain the economic stability.

Alongside were adopted a law on measures in company, cooperative, association, foundation and residential property law to combat the effects of Covid-19 pandemic as well as changes to the Introductory Act to the Code of Criminal Procedure and an amendment to the Introductory Act to the Civil Code by leading political parties CDU / CSU and SPD [4].

Special provisions are to be introduced in Article 240 of the Introductory Act to the Civil Code for a limited time until June 30, 2020, which give debtors who are unable to fulfill their contractual obligations due to the Covid 19 pandemic the opportunity to perform to refuse or discontinue for the time being without this having any adverse legal consequences. For consumers and small businesses, this should ensure that they are not cut off, in particular from basic supply services such as electricity, gas and telecommunications [5], [2].

With regard to consumer loan contracts, a statutory deferral regulation and a contract adjustment should be introduced after the deferral period has expired, with the possibility for the contracting parties to find a different contractual solution. This is to be accompanied by statutory protection against dismissal. If the period until June 2020 is not sufficient, the Federal Government should be given the opportunity to extend the specified time limits by means of an ordinance. The right of the landlord to terminate tenancies is to be restricted for leases for land or rooms.

As to the other entrepreneurs, according to the same article, with regard to consumer loan contracts, a statutory deferral regulation and a contract adjustment should be introduced after the deferral period has expired, with the possibility for the contracting parties to find a different contractual solution. This is to be accompanied by statutory protection against dismissal. If the period until June 2020 is not sufficient, the Federal Government should be given the opportunity to extend the specified time limits by means of an ordinance. However, the term is now clearly defined. These are contracts for periodically recurring services and consideration that are fundamentally unchanged in type and scope.

This inevitably raises the question of whether the area of services of general interest within the meaning of Art. 240 EGBGB only includes those services that were provided directly by the state before the major waves of privatization or whether a further understanding is appropriate. In any case, a modern understanding of services of general interest is required. Fixed line telephones are no longer just one of the most important telecommunications services [6].

Identifying contractual claims related to an essential continuing obligation is likely to cause fewer problems. Even those who have already been in default of payment can avert a contract termination based on the corona virus and the new right to refuse performance, provided that their prerequisites were not already fully met before the pandemic. The scope of the right to refuse performance also includes claims for restitution, contractual claims for damages and claims for reimbursement of expenses that arose before the regulation came into force. All of these claims are «in connection with a contract» , as Paragraphs 1 and 2 article 240 require.

So that the right to refuse performance exists, a causal inability to perform due to the corona virus must still be affirmed. According to the will of the legislature, this is to be assumed if the consumer can no longer provide the service without endangering his reasonable livelihood or an adequate livelihood of his dependent relative would not be possible. So called micro-enterprises temporary right to refuse performance also granted according to article 240, Section 1, Paragraph 2 of the EGBGB. The legislator defines micro-enterprises as c ompanies with up to 9 employees and an annual turnover or an annual balance sheet total of up to 2 million euros. From the perspective of the federal government, micro-businesses are just as worthy of protection as consumers. It has long been shown that the strict division between consumers and entrepreneurs in the BGB is not efficient and should be erased.This includes people who enter into a contractual relationship for personal purposes and who have to be protected by the legislature – for example due to the lack of experience in business dealings.

The refusal of a performance can be fulfilled only under the reasonable conditions prescribed by the law, and does not equal exemption from monetary liability in provided cases for individuals as well as for enterprises. So, currently active German civil law is massively supportive of people and entrepreneurs struggling due to the limitations connected with pandemic, ensured less strict measures of financial repayment for lawfully defined reasons including debt and fulfillment of essential means, which is vital in such circumstances, but such provisions cannot be permanent, and will be later altered or removed, partially or fully, since most of them are active only in the case of Covid pandemic and do not carry other beneficial use or financial long term stability for the country.

Compared to the situation in Ukraine, during the quarantine period, with the adoption on March 30th 2020 by the Verkhovna Rada of Ukraine the Law «On Amendments to Certain Legislative Acts Aimed at Providing Additional Social and Economic Guarantees in Connection with Coronavirus Disease (COVID-2019) «a number of temporary and permanent changes were introduced [8].

The law amends a number of articles which regulate the terms (including the statute of limitations) in various legal relationships. Such terms shall be extended for the period of quarantine, established by the Cabinet of Ministers of Ukraine for the prevention of the spread of coronavirus disease, this applies to the provisions: art. 257 «General statute of limitations», art. 258 «Special statute of limitations», art. 362 «Preferential right to purchase a share in the right of joint partial ownership». Establishing accordingly that the period from the moment of notification of other co-owners of the intention to alienate the share, after which the co-owner has the right to sell his share to another person (not the co-owner) and 1 year statute of limitations to the requirements for transfer of rights and obligations partial ownership [1].

Relevant changes to the statute of limitations will not be introduced in the Civil Code of Germany, which allows us to recognize the positive innovation of the national legislator in terms of procedural settlement of civil relations during quarantine.

Overall, we see the tendency that in comparison with German legislator's approach, which is more supportive, manifesting in a number of provisions to sustain various businesses in different forms, while our is rather sheer damage control manner. So for us it is desirable to see in near future adoption of norms, especially in such trying situations, that not only govern the risks, but primarily support those affected to maintain the quality of living and economic stability.

BIBLIOGRAPHY:

1. Civil Code of Ukraine: Law of Ukraine of January 16, 2003. Information of the Verkhovna Rada of Ukraine. 2003. № 45-46. Art. 356.

2. Bürgerliches Gesetzbuch (BGB). URL: https://www.gesetze-im-internet.de/bgb/

3. Gesetz zur Abmilderung der Folgen der COVID-19-Pandemie im Zivil-, Insolvenzund.URL:https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/Bgbl_Corona-Pandemie.pdf?__blob=publicationFile&v=1

4. Coronavirus: significant changes in German civil and inconveniency law. URL: https://www.lexology.com/library/detail.aspx?g=807a88a8-6f70-4946-9b89-0a7fed52a8fc

5. Änderungen im Zivil-, Insolvenz- und Strafverfahrensrecht angenommen. URL:https://www.bundestag.de/dokumente/textarchiv/2020/kw13-de-corona-recht-688962

6. BGB-Antwort auf Corona-Krise: Wie ändert sich das Vertragsrecht?. URL:https://anwaltsblatt.anwaltverein.de/de/anwaeltinnen-anwaelte/anwaltspraxis/bgb-corona-krise-wie-aendert-sich-das-vertragsrecht

7. Änderungen im Zivil-, Insolvenz- und Gesellschaftsrecht zur Abmilderung der Folgen der COVID-19-Pandemie. URL:https://www.bvda.de/themen/coronavirus/aenderungen-im-zivil-insolvenz-und-gesellschaftsrecht.html

8. COVID-19 in Ukraine: changes to the civil and commercial codes. URL: https://www.asterslaw.com/ua/press_center/covid19hub/amendments_to_commercial_civil_and_administrative_codes/