

Legal regulation of banks with foreign capital in EU legislation

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Abstract. Ukraine is in negotiations for deep and comprehensive integration with the EU, which involves adapting standards and rules. The regulation of banks with foreign capital plays a crucial role in this process, being a significant aspect for Ukraine as the country aims to deepen its economic ties with the EU. The research aims to identify the distinctive features and patterns that govern the legal regulation of the activities of foreign banks in EU countries. Historical-legal, special-legal, functional, formal-logical, dialectical-materialistic methods, and a systematic approach were employed in the study. The investigation revealed several directives at the EU level focused on regulating foreign investments and ensuring the security of investment processes within the EU's internal market. The analysis indicated that these directives aim to ensure unity and effectiveness in controlling foreign investments in strategic sectors. They grant member countries the right to take measures to identify and control foreign investments that may pose a threat to security or public order. Additionally, they define obligations regarding information disclosure for foreign investors seeking control over European companies in strategic areas. Furthermore, they regulate financial instruments and services in the EU internal market, including services for foreign investors, and guarantee standards and transparency in operations on EU financial markets. The research concludes that these directives aim to create a unified and secure financial system in the EU, ensuring the protection of strategic sectors from unforeseen external interventions. This study can serve as a valuable tool for government officials, regulators, academics, and financial industry professionals in making informed decisions regarding further reforms and improvements in legislation for banks with foreign capital in the EU

Keywords: international system; money circulation; financial institution; information exchange; property

Introduction

Ukraine actively engages with the EU, conducting negotiations for deep and comprehensive integration, which entails compliance with EU standards and rules. A significant emphasis is placed on regulating banks with foreign capital, as this is a decisive aspect in strengthening economic ties between Ukraine and the EU. The study of issues related to

the legal definition and control of banks with foreign capital in the EU is conditioned by the following factors: the complexity of regulatory policies and macroeconomic instability. The complexity of regulatory policies stems from the fact that regulating banks with foreign capital in the EU is intricate and diverse due to different approaches of member

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countries. The research on the issues of problematic areas requires an understanding of various rules and requirements, which can be a challenging task. Macroeconomic instability is influenced by the economic instability in some EU countries, making the study of the impact of banks with foreign capital crucial for assessing risks and developing adequate regulatory strategies. Studying these issues requires a comprehensive approach covering economic, financial, legal, and political aspects of the interaction of banks with foreign capital in the context of the European space.

Globalization and Eurointegration are key processes shaping the development of the modern world (Sahibzada *et al.*, 2022). For Ukraine, it is crucial to carefully study and adapt its legislation, especially in the foreign banking sector, to EU standards for several key reasons. Firstly, this is associated with Ukraine's integration into the European economic space, as adaptation to European norms promotes deep integration and convergence of legal frameworks (Kateryniuk, 2022). Additionally, it contributes to the creation of a competitive financial sector that attracts foreign investments and supports economic development. This comprehensive approach not only strengthens Ukraine's economic ties with the EU but also contributes to the establishment of a stable and transparent financial system, crucial for the country's sustainable development. The study of issues related to the legal regulation of banking operations has been undertaken by scholars from various scientific fields. In their research, A.M. Tsvytkov (2023) examines issues arising in the legal regulation of the registration of banks with foreign capital by the National Bank of Ukraine. The author analyses aspects from the perspective of Ukrainian legislation but does not delve into the specific European regulation of banks with foreign capital in the EU.

Researchers L. Kostyrko *et al.* (2022) conclude in their study that the EU plays a key role in the global economy, especially in international trade of goods and services, as well as in foreign investments. The European Commission consistently develops new initiatives aimed at stimulating economic growth (e.g., the European Fund for Strategic Investments) and assessing macroeconomic risks in EU member countries. The study examines statistical information on such investments but does not provide normative-legal acts of the EU regarding foreign investments. A group of researchers, O.M. Gutsalyuk and N.V. Gavrilova (2023), focuses their research on aspects related to investment strategies chosen by commercial banks, with special attention to studying these strategies in the context of Eurointegration processes. The authors examine economic factors of foreign banks' activities and provide statistical information but do not provide examples of normative-legal regulation of investment activities of banks in the EU.

The research by I.V. Zhuk (2023) addresses some norms and standards of the EU in the field of criminal legal regulation of banking activities. The author notes that EU legislation has accumulated a significant number of regulations defining rules and conditions for a wide range of banking services. This work also considers normative-legal acts regulating banking activities in the EU. O. Drachov (2023) analyses theoretical approaches to the restoration and formation of legal regulation of the EU banking market. The study explores systematic normative-legal acts aimed at determining the need for creating a single financial market in the Community. The periodicity of regulation is identified, and

stages of development of the banking system, considered as a key component of the EU's single financial market, are discussed. However, the researcher does not provide statistical information on the financial market, especially banks with foreign capital.

The research aims to identify the features and patterns that define the legal context of managing foreign banks in EU countries.

Materials and methods

In the course of the research, regulatory and legal documents were used, such as: Second Council Directive 89/646/EEC "On the Harmonization of Laws, Regulations and Administrative Acts Relating to the Establishment and Operation of Credit Institutions and Amending Directive 77/780/EEC" (1989), Council Directive 69/335/EEC "On Indirect Taxes On Capital Mobilization" (1969), Council Directive 86/635/EEC "On Annual Reports and Consolidated Reports of Banks and Other Financial Institutions" (1986), Council Directive 89/117/EEC "Regarding the Obligation to Publish Annual Accounting Documents by Structural Divisions of Credit and Financial Institutions Established in Member States Whose Head Office is Located in the Territory of Another Member State" (1989), Directive 2001/24/EU of the European Parliament and the Council "On the Reorganization and Liquidation of Credit Institutions" (2001), Directive 2006/48/EU of the European Parliament and of the Council "On the Establishment and Operation of Credit Institutions" (2006). In addition, statistical data related to the attraction of foreign investments in the EU banking system were used.

The dialectical-materialistic research method involved the study of interrelationships and the influence of economic structures and processes on the regulation of banking activity with foreign capital. Thanks to the appropriate method, it was possible to consider how changes in legislation affected the functioning of banks and, in turn, how their activities affected economic and legal processes. During the study, a systematic method was used for the legal examination of banking relations in both static and dynamic dimensions, as well as the study of this issue as a complex and interconnected systemic phenomenon. The system method made it possible to consider the problems of the research in the context of the general system of legal regulation. Applying the method of logical analysis, the model of interaction between participants of banking systems was investigated. The formal-logical method not only determined the sequence of conducting the research, but also made it possible to draw several conclusions and develop proposals for further improvements in the legal regulation of banking relations, using the experience of European and EU countries.

The comparative legal method included the analysis of legal provisions and norms, comparing them with similar provisions in other jurisdictions or international organizations. This method made it possible to highlight the similarities, differences, and peculiarities of the regulation of foreign banks in different countries, which contributed to a more profound understanding of legal approaches and their effectiveness. The appropriate method made it possible to get a comprehensive idea of the variety of approaches to the regulation of banking activity with foreign capital, and to choose the most optimal solutions for improving the system of one's own jurisdiction. The historical-legal research method included studying the development of legal regulation of

this area over time and considering historical and legal contexts. With the help of this method of researching the stages of development of the banking industry in the EU, as well as changes in the legislation regarding foreign capital in the field of banking services. In addition, the texts of the main legal acts of the EU concerning banks with foreign capital were considered. Research using the historical-legal method provided an opportunity to better understand the formation and evolution of the legal environment in the context of the presence of foreign capital in banks in the EU.

The functional research method was based on the study of the functional structure and the role of legal norms in the regulation of banking activity. With the help of the appropriate method, the functions performed by banks with foreign capital in the EU economy were considered, and the key aspects determining the role of such banks in the financial system were also established. The directives concerning banks with foreign capital, which in particular define the rights and obligations of such banks to regulators and customers, were considered. The functional method made it possible to study the content of the legislation, as well as how it affects the real functions and operations of banks with foreign capital in the context of the EU internal market.

The special-legal method included focusing on legal aspects and norms that determine the status, rights, and obligations of these banks. It also included a thorough review of EU legal documents that determine the status of banks with foreign capital and their main definitions, systematization of legal articles that regulate the activities of such banks within the EU. The special legal method provided an opportunity to fully consider the legal side of regulation of banking institutions with foreign participation in the EU.

Results

The success of banks determines the economic achievements of EU member states. With a focus on improving the performance of such systems through competitive pressure, the orientation toward the international level plays a significant role in the banking sector. Thus, EU countries have opened their banking sector to global competition, but at the same time, they do not refrain from influencing the process of internationalization, actively participating to ensure the development and protection of their national economic interests. The global financial crisis did not significantly alter the fundamental aspects of regulating EU financial institutions. Despite the continued active approach to the internationalization of the banking sector, there is an increased influence of national regulators and governments of member countries. The latter are forced to actively intervene to provide assistance to banks in their countries in the face of a challenging economic situation.

In examining the issue of legal regulation of banks with foreign capital, it is necessary, firstly, to explore the regulatory framework that defines these issues. In the EU, the document imposing the obligation on a member state to take specific measures to achieve its defined goals is the Directive. Directives are often applied to harmonize legislation in member countries, giving them the choice of methods and means that will, over time, ensure the implementation of unified legal standards. The first document is the Council Directive 69/335/EEC "On Indirect Taxes on Capital Mobilization" (1969), which regulates issues related to the taxation of companies' share capital. Thus,

companies, firms, associations, or legal entities engaged in profitable activities and using shares in capital or assets in stock exchange operations are subject to taxation. Such companies, whose members can manage their shares, are considered companies with share capital and are subject to corresponding taxation. Capital taxation is carried out in the EU member state where the actual management centre of the company is located. If such a management centre is outside the EU, the tax is levied on the registered office or branch of the company located in an EU country.

In 1977, the European Economic Community adopted a banking directive that established general principles for regulating the activities of credit institutions in member countries (First Banking Directive..., 1977). In 1983, the next step was taken – requirements for regulating credit institutions on a consolidated basis were established, as well as mandatory information exchange between regulators. In 1986, accounting rules for credit institutions were harmonized. Council Directive 86/635/EEC "On Annual Reports and Consolidated Reports of Banks and Other Financial Institutions" (1986) was adopted with the aim of improvement, with a focus on improving the quality and consistency of financial reporting and consolidated reports of banks and financial institutions submitted annually, especially considering that an increasing number of them are expanding their activities beyond national borders. This directive sets requirements for balance sheet items and financial statements on income and expenses, as well as for consolidated reports and their mandatory publication in each EU member state where the financial institution has structural subdivisions.

Council Directive 89/117/EEC "Regarding the Obligation to Publish Annual Accounting Documents by Structural Divisions of Credit and Financial Institutions Established in Member States Whose Head Office is Located in the Territory of Another Member State" (1989) concerns the obligation to publish annual financial documents of structural divisions of banks and financial institutions that were created in EU member states but have their head office in another member state. This directive provides for the coordination of measures for the disclosure of various documents, such as annual and consolidated reports, general annual and consolidated annual reports, auditor's findings responsible for auditing annual and consolidated reports, for structural divisions located in an EU member state with offices outside it.

EU member countries establish the requirement for the publication of bank documentation by its structural divisions. However, the directive specifies that if a bank has its head office in a non-EU country, the requirements of this directive apply only if the legal form of such a bank is like those defined in this directive. In addition, it is specified that the preparation of documents must comply with the requirements of Council Directive 86/635/EEC "On Annual Reports and Consolidated Reports of Banks and Other Financial Institutions" (1986), and there is a mandatory requirement for the preparation and audit of documentation in accordance with the legislation of the EU member state where the bank's head office is located, if the bank's head office is located in a country that is not an EU member, and its structural subdivision is located in an EU member state.

In 1989, the EU adopted the Second Council Directive on banking coordination (Second Council Directive..., 1989). This recommendation is based on three main principles: mutual recognition, minimally necessary harmonization of

regulation and control in the country of origin. The principle of mutual recognition, known as the single passport principle, stipulates that banks from each EU country can freely conduct operations and open branches in other EU countries. According to the principle of minimally necessary harmonization, if agreements on minimum standards are reached, a product or service that complies with the standards of one country can be marketed throughout the European Union (Fons-Rosen *et al.*, 2021). In this case, intervention in the banking legislation of each participant is limited to general requirements for compliance with accounting standards, regulation, and investor protection rights.

Council Directive 93/76/EEC aims to limit carbon dioxide emissions “by improving energy efficiency (SAVE)” (1993) sets the minimum capital requirements for credit institutions and investment firms. Investment firms managing clients’ funds or securities and offering various services must have initial capital of 125,000 euros. These services include receiving and executing orders from investors regarding financial commitments and managing investment portfolios within the financial commitments specified in investors’ orders. The conditions for the activities of such companies stipulate that they cannot engage in financial transactions on their account or incur financial obligations based on their commitments. Despite this, authorities may grant an investment firm executing orders on financial commitments the right to own such commitments on its account in exceptional cases: if this is related to the firm’s inability to precisely fulfil the investor’s order, if the total market value of such commitments does not exceed 15% of the firm’s initial capital, and if these commitments have an accidental and temporary nature and are strictly limited in time required for their execution.

If a company does not have permission to own clients’ money or securities, act independently, or incur financial obligations based on firm commitments, EU Member States may reduce the amount to up to 50,000 euros. All other investment firms must have an initial capital of 730,000 euros. Additionally, it includes requirements for risk monitoring and control arising during their operations, regulates key aspects of supervision on a consolidated basis, establishes reporting requirements, and other important provisions. According to Directive 2001/24/EU of the European Parliament and the Council “On the Reorganization and Liquidation of Credit Institutions” (2001), a credit institution and its branches are considered a single economic entity for supervision by competent authorities of the state issuing the licence to operate, and this licence is valid throughout the EU territory. The directive also stipulates that unity between the institution and branches is mandatory in the case of reorganization or liquidation. Administrative or judicial authorities of the country of origin have the right to independently decide on the implementation of reorganization measures

regarding the bank, considering its branches in other EU countries. These measures related to structural changes must comply with the laws and regulations of the country that issued the licence for banking activities.

Competent authorities of the country where the bank is registered (country of origin) must notify the relevant authorities of the country where the bank’s branch is located (EU Member State) of the adoption of reorganization or liquidation measures. The directive also defines the procedure in certain situations, such as if the bank’s headquarters and its branches are located both within and outside the EU. If the bank’s headquarters are located outside the EU, and its branches operate in EU countries, and there is a need to implement reorganization measures for a branch, the competent authorities of the country where the branch is located within the EU must immediately inform other countries where the bank’s branches are also located within the EU about the application of administrative or judicial reorganization measures. These actions must be coordinated and jointly decided between the relevant countries.

Directive 2006/48/EU of the European Parliament and of the Council “On the Establishment and Operation of Credit Institutions” (2006) relates to mandatory audit of annual and consolidated reports and amends the previous Fourth Directive No. 78/660/EEC of the Council of the European Communities, based on Article 54(3) “G” of the Treaty, on the annual reporting of certain types of business companies (2006). It also repeals the effectiveness of the Eighth Directive 84/253/EEC of the Council of the European Communities, which is based on Article 54 (3) (g) of the Agreement on the approval of individuals responsible for conducting regulatory audits (audits) of accounting documents (1984). The main purpose of this recommendation is to establish requirements for the use of a unified set of international audit standards, improve the quality and harmonization of mandatory audits in EU Member States, and strengthen cooperation between EU countries and other countries to increase trust in mandatory audits. The directive specifies requirements for the admission of auditors and audit firms, provides for the designation of competent authorities responsible for this admission and its revocation. It also allows for the possibility of admitting auditors from EU Member States and other countries outside the EU, and establishes requirements for continuous education, mandatory registration, professional ethics, independence, objectivity, confidentiality, and ensuring the professional secrecy of auditors.

In the financial systems of large EU countries, such as Spain, Italy, Germany, and France, limited presence of foreign capital has been observed (Bayar *et al.*, 2021). In Germany, this fact can be explained primarily by institutional characteristics. In the case of Italy, Spain, and France, these countries are traditionally considered “main European protectionists” (Table 1).

Table 1. The number of foreign banks in the EU in 2022

Country	Share of foreign banks and their branches in total bank assets, %	Share of foreign banks and their branches from non-EU countries in total banking assets, %
Belgium	29	3.6
Denmark	22	0
Germany	7.7	2.1
Greece	29	4
Spain	14.3	1.3

Table 1, Continued

Country	Share of foreign banks and their branches in total bank assets, %	Share of foreign banks and their branches from non-EU countries in total banking assets, %
France	7.2	1.4
Ireland	41	17
Italy	6.2	0.6
Luxembourg	91	6.1
Netherlands	16.2	1.4
Austria	28	0.22
Portugal	34.3	0.31
Finland	10.1	0
Sweden	9.2	0.5

Source: Proceedings of the thirty-first annual meeting of the board of governors (2022)

Global banks prefer to use the branch form of their presence abroad, as it provides closer control and is associated with lower management costs, provided that the country risk does not exceed a certain level. A study conducted by the European Central Bank on the banking systems of the new EU member states indicates a trend towards the transformation of subsidiaries into branches,

especially in smaller countries, due to the opportunities created by the general harmonization of banking legislation within the EU (Vasile *et al.*, 2022). The data also show a significant increase – at the level of 40-50% – in the number of representative offices of banks from other EU countries in most EU countries, except Greece and France (Table 2).

Table 2. Branches of foreign banks in EU countries in 2022

Country	Assets of branches of foreign banks, billion euros	Ratio of branch assets to total assets of banks in other countries, %	The number of branches of foreign banks
Belgium	46.8	24	96
Denmark	28.8	31.2	30
Germany	105.36	27.6	116
Greece	23.04	49.2	40
Spain	106.2	63.6	120
France	133.56	60	160
Ireland	84	33.6	61
Italy	118.68	94.8	184
Luxembourg	11.388	18	101
Netherlands	33.12	19.2	56
Austria	4.08	3.06	45
Portugal	20.28	21.6	46
Finland	15.6	91	38
Sweden	40.08	85	55

Source: Proceedings of the thirty-first annual meeting of the board of governors (2022)

In practically every EU country, the participation of foreign branches in national banking systems remains small. In new EU members, this participation is limited to 7%. The presence of branches of foreign banks in “old” EU countries can be traced from the data in the table. When comparing the provided data with the information in Table 1, it can be noticed that branches of foreign banks have a significant impact only in Ireland. Regarding the representations of banks from non-EU countries, their overall contribution is limited. In Denmark, Ireland, Portugal, Austria, Finland, and Sweden, they are entirely absent (Shala and Toçi, 2021). In contrast, foreign banks entering the EU market may form subsidiary structures with “single passport” rights, but the creation of branches is subject to regulation according to the legislation of each country separately; these branches do not have “single passport” rights.

Overall, in EU countries, the shares of assets belonging to branches and subsidiary structures are roughly equal – 55% in favour of branches and 26% in favour of subsidiary

structures. However, their small share in Austria (3.06%), the Netherlands (19.2%), Portugal (21.6%), and Belgium (24%) requires explanation (Proceedings of the thirty-first annual..., 2022). In their banking systems, as noted, influential banks from neighbouring large countries play a decisive role. From the perspective of these banks, the use of branches is the most efficient, as it is associated with lower costs and is easier to manage. High credit ratings of almost all leading European banks, as well as cooperation between regulators within the EU, exclude restrictions on the creation of branches imposed by prudential regulation (a system of rules defining specific limitations for banks to reduce risk and norms establishing relationships between credit institutions and the central bank regarding compliance with these limitations). However, the share of branches remains small.

According to the provisions of Article 4 of the current Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and

amending Regulation (EU) No. 648/2012 Text with EEA relevance (2013), the term “credit institution” defines an economic entity engaged in activities such as accepting deposits or other repayable funds from the public and granting loans for its account; performing any activities specified in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU of the European Parliament and of the Council, provided that one of the following conditions applies: the total value of consolidated assets of the economic entity equals or exceeds EUR 30 billion; the total value of assets of the economic entity is less than EUR 30 billion, but the economic entity belongs to a group where the total value of consolidated assets of all economic entities within the group, each with a total value of assets not exceeding EUR 30 billion, equals or exceeds EUR 30 billion; or the total value of assets of the economic entity is less than EUR 30 billion, but the economic entity belongs to a group where the total value of consolidated assets of all economic entities within the group engaged in any activity specified in points (3) and (6) of Section A of Annex I to Directive 2014/65/EU equals or exceeds EUR 30 billion. In the case of including an economic entity in a third-country group, the total value of assets of each branch of the relevant third-country group authorized in the Union is considered in the aggregate value of assets of all economic entities within the group.

One of the key methods for increasing the volumes of international banking activities has been the creation or facilitation of financial institutions within the EU compared to other legal structures. This type of foreign banking service remained resilient after the Global Financial Crisis due to limited restructuring, influenced by the diversity of the internal capital market (Stoica *et al.*, 2020; Abuselidze, 2021). Analysing the nature of bank activities considering the location of the ultimate owner, it becomes apparent that foreign banks employ different strategies in collaborating with local financial intermediaries and also exhibit differences in lending and loan strategies. Examining the impact of regulation on the choice of foreign entry, differences in capital requirements for branches of foreign banks can be analysed, depending on their countries of origin, leading to non-harmonized implementation of prudential supervisory instruments among EU countries.

In the EU, there are specific rules and requirements for the creation and operation of foreign banks and their branches in EU member states, particularly those that are not part of the European Union. Fundamental principles are regulated by various directives and regulatory acts, as well as common standards aimed at creating a single banking zone and ensuring the stability of the financial sector. Banks must obtain a licence from the national financial authorities of the EU member country where they wish to conduct banking activities. Conditions include financial stability, compliance with capital and liquidity requirements, and professional competence in management. Banks must have a sufficient level of capital to ensure financial stability and protect depositors, according to regulations on minimum capital size. Banks must regularly submit financial reports and adhere to EU reporting standards. Additionally, the EU has a Single Supervisory Mechanism (SSM). Foreign banks with a headquarters in an EU member country may be subject to the Single Supervisory Mechanism, providing centralized supervision at the EU level. EU legislation also includes a deposit guarantee system that ensures depositors' protection in the

event of a bank's bankruptcy. These rules and requirements aim to create a single banking zone in the EU and ensure the stability and reliability of the banking sector in the face of the globalization of financial markets.

EU standards apply to all countries in the European Economic Area (EEA) regarding banking supervision in their countries of origin. If a bank from the EEA intends to open a branch in another EU member country, there is no need to fulfil additional capital requirements. Many EU countries have established requirements for foreign banks that are not part of the EEA. However, only four countries (Denmark, Finland, Greece, and the Netherlands) apply these principles uniformly to the sufficiency of capital for all foreign branches. Other countries, namely Germany and Italy, make exceptions for certain foreign countries, defining additional regulatory capital (Degryse *et al.*, 2012; Bakkar, & Pamen Nyola, 2021). This overview considers the impact of regulation on the application of capital requirements for foreign branches in the banking market of a specific country, considering the market share of foreign banks.

Discussion

Banks with foreign capital play a key role in the financial system of the EU, sparking interest in terms of economic development, competitiveness, and the stability of the banking sector. Research on this aspect provides insights into trends, impact, and the role of foreign banks in the financial landscape of Europe. The study results highlight key aspects of their activities, such as profitability levels, risks, and development strategies. Special attention has been given to the interaction of these banks with the regulatory environment of the EU, particularly the legal aspects of foreign investments. Recently, scholars from various scientific and legal fields have focused on issues related to the legal regulation of banking operations, addressing current challenges, and becoming the subject of research. The findings of the interaction of foreign banks in the EU have been compared with previous studies and literature in the field.

Researchers such as M. Shkurat *et al.* (2023) note in their study of the economic development of EU countries that Ireland has successfully implemented a strategy to attract foreign investments, creating a favourable business environment. This has contributed to the economic uplift of Ireland, effectively attracting direct foreign investments, and achieving low unemployment rates. The study also identifies Ireland's high level of foreign investment, including a significant number of banks with foreign capital. Ireland's low corporate tax rate attracts many international companies, allowing them to reduce tax burdens and attract capital for development. EU membership provides businesses in Ireland with easy access to the large European market, as the EU has a unified regulatory framework, facilitating the operations and connections of banks.

Researcher N.V. Trusova (2022) concludes that the removal of the national investment system from the growth trajectory accelerates its development and has increased its attractiveness for foreign direct investment, which has prompted interest in using local resources to produce and send investment assets to foreign markets. This resulted in an international agreement on the safe flow of EU deposits to developing countries to be able to use available and cheap resources and financial instrument markets. Foreign capital investment is associated with a large increase

in capital turnover. In addition, the nature of international capital flows is determined by the conditions of foreign investment and protection against risks, and its effectiveness is guaranteed by the geo-economic dimension of its impact on the economic, regional, and social development of the country receiving foreign investment. The author also notes that global capital investment in the Ukrainian economy allows investors to reduce transport expenses (by locating their business near newly established sites), bypass duties on products and services produced by the domestic market of Ukraine, attract affordable labour, which is usually cheaper, reduce risk diversification and generate income, including profits and dividends. At the same time, Ukraine is a recipient of European investment, and has benefited from increased gross domestic product (GDP), higher employment, lower imports, and domestic economic stimulus. The author has conducted a study of foreign investment in general, considering the experience of the EU and the US. Nevertheless, it is worth agreeing with the author, as global capital investment in the Ukrainian economy creates opportunities for efficient use of resources, cost reduction and profit for investors. It also contributes to the development of local economies and cooperation between countries, which leads to mutually beneficial results for all parties.

E. Cerutti *et al.* (2017) emphasize the importance of foreign banks conducting operations in developing countries and other markets with a high participation of foreign banks. Eastern European countries, including Slovakia, Lithuania, Hungary, Croatia, the Czech Republic, and Bulgaria, fall into this category. Luxembourg historically had the highest number of foreign banks in Europe. However, the analysis of the role of foreign ownership in EU countries and beyond shows that markets with more foreign banks outside the EU include Germany, Denmark, France, Ireland, Latvia, Malta, the Netherlands, and Portugal compared to foreign banks within the EU. Therefore, the country-specific aspect influencing investor protection does not seem decisively important for attracting international banking investors from outside the EU. Luxembourg stands out with a significant percentage of foreign banks and their branches. The authors' conclusions, recognizing developing markets and those where foreign banks play a crucial role as key for global banking activities, can be supported.

The group of researchers L. Gibilaro and G. Mattarocci (2021) obtained results during their research indicating that foreign banks can benefit from regulatory arbitrage in choosing European countries for their operations. This is due to differences in capital regulations for banks that are not part of the European Economic Area. Countries with less stringent restrictions for foreign participants may foster increased competition in credit and deposit markets. However, this may lead to local participants having to engage in a competitive environment with foreign banks not subject to the same legislative constraints, creating a disproportionate advantage for banks outside the European Economic Area and increasing the influence of foreign banks on internal European financial markets. The study focused on analysing the legal regulation of banks with foreign capital, touching on the frameworks of EU countries for the European Economic Area. It is worth noting that the presence of a greater or lesser number of regulated organizations and conditions where national supervisory rules are less effective can increase the risk for all participants in the banking market, including creditors and borrowers, especially in extreme crisis.

Researchers Z. Korzeb *et al.* (2023) point out that while foreign investors consider entering new banking markets or changing their cash flows in existing markets, they typically face a choice between two opposing strategies. Advocates of the first strategy emphasize risk reduction, focus on diversified distribution, and choose a stable environment in the host market. Advocates of the second strategy, showing less inclination to accept risk, prefer banking sectors that offer prospects for increased profitability and are more likely to take on higher sovereign debt risk to encourage the assumed risk. This study aims to analyse the legislative framework of the EU regulating foreign investments and interconnections. However, it is important to agree with the researchers that strict limitations on banking activities and countries where supervisory authorities have greater independence reduce the impact of foreign banks on the banking system and the economy as a whole.

Analysing the activities of banks from other countries in the EU has become crucial for understanding the financial system and the interaction of banks in the context of European integration. The conclusions drawn can serve as a starting point for further research and contribute to improving control over the financial sector in the EU.

Conclusions

Foreign banks actively invest funds in various EU countries, creating new financial structures with conditions that differ from local financial institutions. However, the presence of foreign banks reveals diversity in different countries, both for EU and non-EU banks. One reason that may explain the choice of a bank to invest abroad is the differences in prudential regulation for banks located in countries outside the European Economic Area. Significant regulatory differences relate to capital requirements for foreign branches. Several EU countries do not impose additional capital requirements on banks operating on their territory. An overview of the EU market indicates that reduced capital requirements contribute to the interest of foreign banks in providing loans and attracting deposits in these countries, supporting competitiveness.

EU legislation carefully regulates the activities of foreign banks and their branches in various European countries. It establishes rules for the establishment and operations of foreign banks and their branches in EU member countries, as well as specific requirements for branches of banking institutions headquartered in non-EU countries. The Netherlands, Denmark, Germany, and Luxembourg have the largest net international investment positions compared to GDP. The EU plays a key role in the global economy in terms of international trade in goods and services, as well as foreign investments. The European Commission consistently works on new initiatives aimed at promoting economic development.

Research on the topic of legal regulation of banks with foreign capital in EU legislation opens up a wide range of perspectives for further scientific investigation. Specifically, conducting a comparative analysis can help identify similarities and differences, as well as effective regulatory methods, by comparing regulatory practices for banks with foreign capital in different EU countries. Additionally, comprehensive research can explore the impact on the financial market, studying how banks with foreign capital influence the EU financial market, including their role in lending, innovation, and overall financial stability. Analysing how global

economic and political trends may affect the regulation of banks with foreign capital in the EU is crucial. Studying these aspects will contribute to a more profound understanding and effective regulation of the banking industry in the context of globalization and economic integration.

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Правове регулювання банків з іноземним капіталом в законодавстві ЄС

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Анотація. Україна веде переговори про глибоку та всебічну інтеграцію з ЄС, що передбачає адаптацію стандартів та правил, зокрема питання регулювання банків з іноземним капіталом відіграє ключову роль у цьому процесі, що є важливим аспектом для України, оскільки країна прагне поглибити свої економічні зв'язки з ЄС. Мета дослідження полягає у визначенні характерних рис та закономірностей, що забезпечують правове регулювання діяльності іноземних банків у країнах ЄС. В процесі дослідження були використані історико-правовий метод, спеціально-юридичний метод, функціональний, формально-логічний та діалектико-матеріалістичний метод, а також системний підхід. В результаті дослідження було встановлено, що на рівні ЄС існують кілька директив, спрямованих на регулювання іноземних інвестицій та забезпечення безпеки інвестиційних процесів в контексті внутрішнього ринку ЄС. Аналіз показав, що директиви ставлять за мету забезпечити об'єднаність та ефективність контролю над іноземними інвестиціями в стратегічні сектори. Вони надають країнам-членам право вживати заходів для визначення та контролю над іноземними інвестиціями, які можуть становити загрозу безпеці чи громадському порядку. Також, визначають обов'язки щодо розкриття інформації для іноземних інвесторів, які намагаються отримати контроль над європейськими компаніями в стратегічних галузях. Крім цього, регулюють фінансові інструменти та послуги на внутрішньому ринку ЄС, включаючи обслуговування іноземних інвесторів та гарантують стандарти та прозорість в операціях на фінансових ринках ЄС. Висновки дослідження вказують на те, що директиви мають на меті створення єдиної та безпечної фінансової системи в ЄС, а також забезпечення захисту стратегічних секторів від непередбачуваних зовнішнього втручання. Дане дослідження може слугувати важливим інструментом для урядовців, регуляторів, академіків та фахівців у фінансовій галузі для прийняття обґрунтованих рішень щодо подальших реформ та вдосконалення законодавства для банків з іноземним капіталом в ЄС

Ключові слова: міжнародна система; грошовий обіг; фінансова установа; обмін інформацією; майно