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Kiryukhin Oleksiy Mikhailovich,
associate researcher

UniGR-Center for Border Studies, University of Luxembourg
11, Porte des Sciences, L-4366 Esch-sur-Alzette, Luxembourg

e-mail: kiryukhin.research@gmail.com ORCID: <https://orcid.org/0009-0006-8797-1417>

CROSS-BORDER ASYMMETRIES OF EU MULTI-LEVEL GOVERNANCE : THE CASE OF UKRAINIAN CITIZENS UNDER TEMPORARY PROTECTION

Abstract. The article conceptualises cross-border dysfunctionality in the architecture of EU multi-level governance as a new analytical category of public administration. The relevance stems from the unprecedented situation in which about 4.40 million Ukrainian citizens (February 2026) reside in the EU under temporary protection (TPD 2001/55/EC), while Ukraine holds candidate-country status with completed *acquis* screening. The study provides conceptual and empirical grounding for three dimensions of multi-level governance asymmetry – between the logic of rights and the logic of territory, between the protection regime and the regimes of internal market freedoms, and between supranational, national, and regional levels of governance. Three methodological approaches are applied: systemic (N. Luhmann’s systems theory and dynamical systems theory), historical-logical (reconstruction of TPD evolution from 2001 through four extensions), and comparative (C. Ragin’s typological method, M. Weber’s ideal-type construction). The empirical base draws on Eurostat, BAMF, UNHCR, and LISER data. A comparative analysis of Germany, Poland, Czechia, and Luxembourg – host countries for about 64% of all EU temporary-protection beneficiaries – confirms the hypothesis of structural fragmentation of post-TP regimes: four incompatible national distribution logics operate at different NUTS levels, rely on distinct registries (AZR, PESEL-UKR, OAMP), and generate concentration ratios differing sixfold (6.5 vs 36.6 per 1000 inhabitants). The Greater Region serves as the focal case, where 231 290 EU-citizen cross-border workers daily cross into Luxembourg while about 4 200 Ukrainian beneficiaries remain blocked by the territorial anchoring of Article 8(1) TPD. The practical value lies in shaping an analytical toolkit for Ukraine’s negotiating position in accession clusters 2 and 3, with three corrective instruments proposed: regional portable rights regime, EU-wide bridging permit, and reform of LTRD 2003/109/EC.

Keywords: *multi-level governance, cross-border dysfunctionality, temporary protection, regional policy, Greater Region, EU enlargement, Ukrainian refugees, portable rights, EU-wide bridging permit.*

Problem statement. Let’s imagine, a Ukrainian citizen holding temporary-protection status in Luxembourg and residing in Esch-sur-Alzette cannot legally take up employment in the neighbouring French town of Audun-le-Tiche, even though the two localities in fact form a single agglomeration on either side of the Franco-Luxembourgish border. In the opposite direction – from Lorraine into the

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Grand Duchy – about one hundred and twenty thousand EU citizens commute every day, facing no obstacle from the same border. The example may appear unduly concrete for an academic article; yet precisely in that concreteness lies its diagnostic force. It points to a structural flaw in a setting that, on the surface, complies with EU legal logic. The rights derived from the temporary-protection regime are territorially anchored in the Member State that issued the permit. The four freedoms of the internal market, by contrast, are functional; they recognise no internal borders for EU citizens. The two logics coexist within the same physical space of the Greater Region without intersecting at any single point.

This phenomenon is not a peculiarity of one Luxembourgish-Belgian border segment. According to Eurostat data as of the end of February 2026, 4.35 million Ukrainian citizens hold temporary-protection status in EU countries: 28.8 % in Germany, 22.0 % in Poland, 9.1 % in Czechia [29]. In other words, roughly as many people as the entire population of Ireland. For a commensurate perspective: during the same period, in September 2025, Ukraine completed the screening of all thirty-three chapters of the *acquis communautaire*, three clusters were deemed ready for opening negotiations, and – despite the Hungarian veto – the European Commission in its 2025 Enlargement Package outlined the horizon of closing negotiations by 2028 [26]. Millions of citizens of a prospective Member State already reside within EU territory and already enjoy a substantial share of internal-market rights – yet in a territorially enclosed, fragmented form. A situation on this scale has never before occurred in the history of EU enlargement.

From here arises the research question around which this article is organised: is the classical architecture of EU multi-level governance, as formulated by L. Hooghe and G. Marks at the turn of the 1990s–2000s, capable of adequately describing – let alone correcting – this situation? We argue that it is not. Between the levels of governance – supranational, national, and regional – what appears is not so much technical inconsistency as a structural incompatibility of logics. The supranational level provides protection but does not coordinate its cross-border application. The national level adapts Directive 2001/55/EC through domestic legal regimes, and these adaptations, as the comparison of Germany, Poland, Czechia, and Luxembourg demonstrates, are mutually incompatible on basic parameters. The regional level – above all cross-border functional zones such as the Greater Region or *Euregio Meuse-Rhine* – remains wholly without any instrument. What forms in consequence is what we shall call the ‘middle-link vacuum’: a space of managerial dysfunction unanticipated by any classical textbook on EU governance.

In the everyday practice of Ukrainian beneficiaries, this ‘middle-link vacuum’ manifests itself in a mundane, inconspicuous way – as a series of small, irremovable obstacles: the impossibility of opening a bank account in the neighbouring country upon crossing the border for work; divergent insurance registries; mismatched school schedules for children who live in one country and attend school in another. Taken together, however, these obstacles constitute not everyday inconvenience but a systemic defect of the MLG architecture. The defect acquires particular significance at precisely this moment, on the eve of the sixth wave of enlargement: the approaches the EU will apply to Ukrainian beneficiaries during the transitional period of 2026–2030 will shape precedents for subsequent waves as well – Moldova, the Western Balkans, and potentially Georgia.

The aim of this article, therefore, is not yet another description of the temporary-protection regime as such – descriptions of the regime have accumulated in sufficient quantity in the literature by 2026. The aim is to conceptualise the structural dysfunctionality of EU multi-level governance manifest in the application of TPD to Ukrainian citizens as a new analytical category of public administration. The thesis of the article is formulated as follows: cross-border dysfunctionality in the MLG architecture is not an aggregate of separate administrative failures but a manifestation of the systemic incompatibility of three logics – the territorial logic of rights, the functional logic of the economic freedoms of the internal market, and the vertical-hierarchical logic of the distribution of competences across governance levels. Empirical verification of the concept is pursued through a comparative analysis of the regional distribution of Ukrainian beneficiaries in Germany, Poland, Czechia, and Luxembourg – four Member States that together host about 64 % of all temporary-protection beneficiaries in the EU. The practical significance of such conceptualisation is to offer Ukraine, as a candidate country, an analytical toolkit for active participation in the forthcoming negotiations under clusters 2 and 3 (internal market, competitiveness), rather than for the passive acceptance of a position that others will articulate on its behalf.

Review of recent scholarly publications. Thematically, this article stands at the intersection of five research traditions, each of which has accumulated a substantial body of work in recent years, yet none of which has linked its subject focus to the others. It is precisely in this gap that the article's original contribution arises.

The first tradition is the classical theory of EU multi-level governance. In its contemporary form, the concept was shaped in the works of Liesbet Hooghe and Gary Marks [31], where a principled distinction is drawn between Type I MLG – the hierarchical distribution of competences among clearly delineated territorial jurisdictions – and Type II MLG – functional-network, cross-border distribution. F. Scharpf in his 1988 and 1999 works [45; 46] introduced the notion of the 'joint-decision trap', describing structural slowdown in systems where competences are duplicated across levels. I. Bache and M. Flinders [6] developed the MLG framework into a fully-fledged strand of EU studies, while S. Piattoni's 2010 monograph [43] summed up the first decade of research and demarcated the limits of the concept's applicability. A common feature of this tradition is its concentration on 'normal' conditions of EU functioning – on the analysis of structural funds, regional policy, cohesion policy. Crisis instruments of the EU, including the temporary-protection directive, typically remain outside its field of attention, classified as exceptional and hence not requiring revision of the architecture as a whole.

The second tradition comprises studies of TPD as a legal instrument and its limitations. Here, by the beginning of 2026, the academic landscape is densely populated. M. Ineli-Ciger in a series of publications in 2024–2025 [33; 34; 35] successively analyses CJEU rulings clarifying the scope of Directive 2001/55/EC: Kaduna (December 2024), Krasiliva (February 2025), Framholm (November 2025). Her commentary on the last case is particularly noteworthy: the Advocate General of the CJEU openly observed that TPD 'has never been revised and has never been aligned with the two decades of development of the Common European Asylum System'. G. Monaco in the EU Migration Law blog [41] develops the concept of 'temporary prolonged protection' – temporary protection that has in effect become a years-long institution against the original design. E. Churadze and E. Jansone

in ECRE Working Paper 22 [9] provide the most comprehensive comparison of national post-TP regimes to date. The ICMPD [32] and EPC [22] works add a dimension of policy-oriented critique. M. Ineli-Ciger and K. Bianchini, in a College of Europe Policy Brief [36], articulate the overarching recommendation of an EU-wide bridging permit. Within this tradition there is consensus on the diagnosis, but no instrumentation for its generalisation: studies concentrate on national post-TPD exit paths, not on the structural compatibility of those paths with one another.

The third tradition consists of studies of cross-border functional zones centred on the UniGR-Center for Border Studies. Christian Wille in works from 2015 onwards [52; 53] developed the framework of 'complex borders' and 'borderscapes', which proposes moving away from a 'linear' understanding of the border towards its comprehension as a multi-layered socio-cultural phenomenon. M. Klatt [38], M. Perkmann [42], F. Durand and J. Nelles [18] set out the general framework of cross-border governance. Within the same tradition, the recent publication of O. Kiryukhin, C. Wille, D. Yampolskyi, and M. Yampolskyi [37] in the UniGR-CBS Working Papers series (No. 29) applies dynamical systems theory to the analysis of cross-border cooperation in the Greater Region: borders are proposed to be treated as stable attractors, and dysfunctionality as the desynchronisation of phase trajectories in the space of managerial decisions. This methodological framework provides continuity for the present article: the concept of cross-border dysfunctionality we develop here may be regarded as a particular case of the general theoretical position articulated in WP 29. The specificity of the UniGR-CBS tradition as a whole is that its empirical focus has historically been centred on EU citizens crossing the borders of the Greater Region daily. The position of Ukrainian beneficiaries in these zones has not, until now, been the subject of dedicated study in the UniGR-CBS literature.

The fourth tradition is the research on enlargement governance. F. Schimmelfennig and U. Sedelmeier in their 2005 monograph [47] described the mechanism of Europeanisation of Central and Eastern European countries through conditionality. H. Grabbe in her 2006 work [30] analysed the EU's 'transformative power'; T. Börzel and T. Risse [8] extended these ideas towards the theory of normative diffusion. A common feature of this literature is its focus on the EU's relationship with candidate countries as external objects of transformation. The situation in which a significant share of a candidate country's citizens is already physically present on EU territory in a specific legal status has not, in this tradition, been conceptualised.

The fifth tradition is the Ukrainian analytical discourse on migration processes during the wartime period. O. A. Malynovska, a leading analyst at the National Institute for Strategic Studies, in a series of works from 2023–2025 [1; 2; 3] successively examines the dynamics of outflow, conditions of integration in host countries, and factors determining decisions on return. In her 2025 analytical review 'To leave – to return – to remain', based on data up to May 2025, a substantial decline is recorded in the share of Ukrainian refugees intending to return: from 75 % in April 2022 to 61 % in the summer of 2024. In the work of M. M. Pityulych, Yu. Yu. Fedak, M. V. Hembik, and S. B. Tyrpak of the M. I. Dolishnyi Institute of Regional Research of the NAS of Ukraine [4], the mirror side of the process is addressed – the regional consequences of mass outflow for Ukrainian oblasts. The Ukrainian discourse is thus well developed in two directions: in the

assessment of migration-behaviour motivation and in the analysis of regional consequences for the sending country. What remains outside it is the structural analysis of the legal conditions in which Ukrainian beneficiaries find themselves on EU territory.

Taken together, this five-dimensional review displays a characteristic configuration of the academic field: each of the five traditions addresses its own subject carefully and consistently, but the gaps between them are not filled. Classical MLG does not engage with TPD. The TPD literature does not proceed to a structural analysis of MLG. Greater Region border studies deal with EU citizens, not with Ukrainian beneficiaries. Enlargement governance treats the candidate country as an external object. The Ukrainian discourse focuses on motivation and on the consequences for the country of departure, but not on the legal architecture of the host country. It is precisely this fivefold gap that forms the space for the original scholarly contribution the article seeks to make.

Aim and tasks of the research. The aim of this article is to conceptualise cross-border dysfunctionality in the architecture of European Union multi-level governance as a new analytical category of public administration – a category that reflects the systemic incompatibility of the territorial logic of beneficiaries' rights under the temporary-protection regime, the functional logic of the economic freedoms of the internal market, and the vertical-hierarchical logic of the distribution of competences among supranational, national, and regional levels – and to provide empirical verification of this concept on the basis of the EU Member States hosting the largest numbers of Ukrainian temporary-protection beneficiaries, on the eve of the sixth wave of Union enlargement.

The aim so stated presupposes the solution of two research tasks. The first task is of a theoretical-methodological character. It consists in identifying and substantiating three dimensions of cross-border dysfunctionality – the asymmetry of rights and territory, the asymmetry of the protection regime and the regimes of economic freedom, and the asymmetry of supranational, national, and regional levels – and in constructing their comparative typology suitable for further academic use in EU-governance studies and for practical application in the activities of public-administration structures of the EU and Ukraine. The results of this task are presented in the first analytical table of the article.

The second task is of an empirical-analytical and normative-recommendatory character. It consists in a comparative analysis of the regional distribution of Ukrainian temporary-protection beneficiaries in four Member States – Germany, Poland, Czechia, and Luxembourg – demonstrating four mutually incompatible national logics of spatial distribution, and, on this basis, in the development of a typology of public-administration responses to the dysfunctionality identified, addressed to three levels: the supranational EU level, the national governments of Member States, and the negotiating position of Ukraine as a candidate country. The results of this task are presented in the second and third analytical tables of the article and are elaborated in the main-material section.

Research hypothesis. The working hypothesis is formulated as follows: the fragmentation of the national regimes through which EU Member States adapt Directive 2001/55/EC to the conditions of the mass and prolonged presence of Ukrainian citizens is not an incidental consequence of differences in administrative traditions or of political conjuncture in individual countries, but a regular manifestation of a structural defect in the EU multi-level governance architecture –

a defect associated with the absence of a coordinating instrument at the middle MLG level, between the supranational and the national. If the hypothesis holds, one should expect that the national logics of spatial distribution of Ukrainian beneficiaries, as they have taken shape in the four compared Member States, will display not merely stylistic differences but models that are, on basic parameters, mutually incompatible – including in zones where these States border one another and form cross-border functional spaces.

A corollary statement also follows, important for the practice of public administration: if the corrective instruments proposed in the article – portable rights regimes in cross-border functional zones, an EU-wide bridging permit, and coordination mechanisms through the enlargement framework – are developed and introduced, the scope of dysfunctionality should diminish substantially, precisely in those zones where it is today most acutely manifest. This reverse side of the hypothesis sets a testable predictive component, the practical validation of which lies beyond the scope of this article but constitutes an agenda for further research.

Methodology applied. The methodological foundation of the study consists of three complementary approaches: systemic, historical-logical, and comparative. Each is applied at its own analytical level and addresses a specific task within the overall analytical construction.

The systemic approach is used to conceptualise EU multi-level governance as a complex open system in which three subsystems interact – the supranational (EU institutions), the national (Member States), and the regional (cross-border functional zones). It is within this approach that cross-border dysfunctionality is defined not as the malfunction of a single element but as a property of subsystem interaction arising from the incompatibility of their operational logics. The methodological source here is N. Luhmann's systems theory in its adaptation to the study of institutional complexes [40], together with dynamical systems theory as applied to the analysis of cross-border cooperation in the Greater Region in the author's earlier work [37].

The historical-logical method is applied to reconstruct the evolution of the temporary-protection regime from its original design in the early 2000s – in the context of the post-Yugoslav migration experience – to the present, when the regime has been extended until 2027 and effectively functions as a years-long institution. This method makes it possible to expose the discrepancy between the instrument's designed logic and the real practice of its application, and to trace how the Council of the EU's successive extension decisions gradually altered the very nature of TPD.

The comparative method constitutes the core of the empirical part of the research. Four EU Member States have been selected for comparative analysis – Germany, Poland, Czechia, and Luxembourg. The selection is grounded on two criteria. The first criterion is representativeness: these four countries together host about sixty-four per cent of all Ukrainian temporary-protection beneficiaries in the EU. The second criterion is diversity of national distribution models: Germany represents a model of coerced even distribution through the FREE platform; Poland, a model of spontaneous concentration in major urban agglomerations; Czechia, a semi-centralised model with dominance of the capital region; Luxembourg, a model of capital-city monoconcentration within a single small jurisdiction. This combination provides maximum coverage of typologically distinct cases with a minimum number of observations, which is a standard device of comparative political science in the vein of C. Ragin's typological approach [44].

The empirical base of the research is built on official statistical sources with full traceability of data. Aggregate indicators for the European Union and its Member States are drawn from Eurostat's monthly publication 'Temporary protection for persons fleeing Ukraine – monthly statistics' as of February 2026 [29]. Regional data for Germany are extracted from the BAMF Brief Analysis 4/2025 of the Federal Office for Migration and Refugees [7]; for Poland, from UNHCR's 2024 Regional Refugee Response and studies on the PESEL-UKR registry [50]; for Czechia, from UNHCR Czechia 2024 and publications of the Ministry of the Interior [48]; for Luxembourg, from operational data of the Ministry of Foreign and European Affairs of the Grand Duchy.

The methodological instrument for structuring the empirical material is the NUTS classification of statistical regions of the European Statistical Service [28]. Its application to the comparative analysis of four countries reveals a telling fact: none of the four compared cases uses the same NUTS level as its principal level of management of beneficiary distribution. Germany operates at NUTS-1; Poland at NUTS-2; Czechia at NUTS-3; Luxembourg, as a small jurisdiction, coincides with a single NUTS-2 region. This divergence is in itself a further manifestation of multi-level governance (MLG) asymmetry. For the construction of the authorial typologies, the method of ideal-type construction in the Weberian tradition [51] is applied: the categories of the typology are derived deductively from theoretical grounds, after which empirical cases are positioned relative to the constructed ideal-type coordinates.

Main material. The concept of cross-border dysfunctionality unfolds through three analytically autonomous but empirically interrelated dimensions. Each of them records a particular type of incompatibility among the subsystems of EU multi-level governance – an incompatibility that taken together constitutes what has been designated above as the 'middle-link vacuum'. Below, the three dimensions are examined in turn, drawing on primary EU legal acts, recent CJEU rulings, and official Eurostat statistics. The results of the analysis are summarised in Table 1.

Table 1. Three dimensions of cross-border dysfunctionality in the architecture of EU MLG (authorial typology)

Dimension of asymmetry	Level of manifestation	Core source of the defect	Illustrative case	Corrective potential
I. Asymmetry between the logic of rights and the logic of territory	Legal and regulatory	Art. 8(1) of Directive 2001/55/EC – territorial anchoring of the residence permit	A beneficiary in Luxembourg who cannot work in the French Audun-le-Tiche 1 km from home	Regional portable rights regime in cross-border functional zones
II. Asymmetry between the protection regime and the regimes of internal-market freedoms	Jurisprudential and institutional	Incompatibility of the logic of attribution (TPD) and the logic of mutual recognition (four freedoms)	CJEU practice 2024–2025: Kaduna, Krasiliva, Framholm – entrenchment of the 'one TP at a time' principle	EU-wide bridging permit; LTRD review directed at counting time spent under TP towards the five-year term
III. Asymmetry between supranational, national, and regional MLG levels	Managerial and territorial	Absence of a coordinating instrument at the middle MLG level	Four national distribution logics for beneficiaries in DE, PL, CZ, LU (see Table 2)	Institutionalisation of the middle MLG link through mechanisms of cross-border employment regulation

Source: authorial elaboration on the basis of [31; 13; 10; 11; 12].

The first dimension is the asymmetry between the logic of rights and the logic of territory. This asymmetry has its source in Article 8(1) of Council Directive 2001/55/EC, which establishes that a Member State granting a person temporary protection issues a residence permit valid for the duration of the protection, and that this permit is bound to the territory of the issuing State [13]. The European Commission formulates this principle most plainly in its official information materials for refugees: ‘the rights derived from temporary protection are valid only in the EU country that granted you the residence permit’ [27]. The provision reproduces the model that the EU’s legal tradition applied to refugees even before the construction of the single internal market: protection was conceived as a territorially localised function of the host State, and cross-border aspects were not contemplated. The four freedoms of the internal market – the free movement of goods, services, capital, and persons – operate by a fundamentally different, functional logic. Yet when protection is transformed from a short-term measure into a multi-year, effectively stationary condition, the territorial localisation of rights begins to obstruct the normal integration of beneficiaries into the internal-market economy. A practical manifestation of this contradiction lends itself to straightforward quantification: at the end of March 2024, the employment rate of Ukrainian beneficiaries in Luxembourg stood at merely thirty-one per cent, with around thirty per cent of those in work concentrated in the health and care sector [49]. So low an indicator in a country of the highest per-capita GDP in the EU and a chronic labour shortage is explained not by the beneficiaries’ unwillingness to work, nor by administrative barriers within Luxembourg – the domestic labour market is open to them – but precisely by the blockage of the cross-border option, which in the Greater Region is the norm for tens of thousands of persons.

Table 2. National logics of the spatial distribution of Ukrainian temporary-protection beneficiaries (28 February 2026)

EU Member State	Absolute number of beneficiaries	Share of EU total	Ratio per 1 000 inhab.	Principal NUTS level of management	Distribution mechanism	Regional concentration
Germany	1 267 475	28.8 %	15.1	NUTS-1 (16 federal Länder)	Coerced even distribution (FREE platform, AZR)	Even (~1.3 %); Hamburg 1.9 %, Bremen 1.8 %
Poland	966 595	22.0 %	26.5	NUTS-2 (16 voivodships)	Spontaneous concentration in major cities (PESEL-UKR)	60 %+ in 5 voivodships: Mazowieckie, Wielkopolskie, Dolnośląskie, Śląskie, Małopolskie
Czechia	399 630	9.1 %	36.6	NUTS-3 (14 kraje)	Semi-centralised administrative (OAMP MV ČR)	Dominance of Prague and the Central Bohemian Region
Luxembourg	~4 200 *	~0.1 %	~6.5	NUTS-2 (whole country)	Capital-city monoconcentration	City-state; Eurostat data since Sept. 2025 missing **

Notes: * For Luxembourg – latest published figures for August 2025.

** The absence of regular data for one of the four countries is itself a manifestation of multi-level governance asymmetry at the level of statistical reporting. Sources: [29]; [7]; [50]; [48].

The second dimension is the asymmetry between the protection regime and the regimes of the economic freedoms of the internal market. The protection regime, codified in Directive 2001/55/EC, is built on the logic of attribution: the Member State attributes a status to a person, and that status governs the full scope of the person's relations with public authority within that State. The internal-market freedoms regime is built on the logic of mutual recognition. These two logics are fundamentally incompatible in the situation where a protection beneficiary crosses an internal EU border: the State into which the beneficiary arrives cannot apply to that person the logic of mutual recognition (the person is not an EU citizen and does not fall under free movement), but neither can it apply its own logic of attribution (protection has already been attributed by a neighbouring Member State and remains in force until March 2027). The CJEU, in a series of rulings in 2024–2025 – Kaduna (December 2024), Krasiliva (February 2025), Framholm (November 2025) – has consistently upheld a restrictive interpretation: temporary-protection status can be actively in force in respect of one person only in one Member State at one and the same time [33; 34; 35]. The CJEU's consistent stance clarifies the legal picture but does not dissolve the asymmetry – on the contrary, it fixes it in jurisprudential form. A synthesis of the key CJEU rulings is presented in Table 3.

Table 3. Key CJEU rulings of 2024–2025 anchoring the territorial binding of beneficiaries' rights

Case	Date of ruling	Legal principle upheld by the CJEU	Academic commentary / source
Kaduna (C-244/24, C-290/24)	December 2024	Prolongation of temporary protection remains at Member States' discretion; restrictions on the right of return to the country of origin are unlawful	M. Ineli-Ciger (EU Law Analysis, 12/2024)
Krasiliva (C-753/23)	27 Feb. 2025	Multiple TP applications in different Member States are inadmissible; status may be in force in only one State at a time ('one TP at a time')	M. Ineli-Ciger (EU Law Analysis, 03/2025): the 'one TP at a time' principle is a key pillar of territorial anchoring of rights
Framholm (C-195/25)	20 Nov. 2025	Temporary protection does not automatically convert into long-term status; TPD continues to operate within the frame of 2001, regardless of many years of practical application	M. Ineli-Ciger (EU Law Analysis, 11/2025): the Advocate General expressly noted that TPD had never been aligned with the twenty-year development of the CEAS

Source: authorial synthesis on the basis of M. Ineli-Ciger's EU Law Analysis Blog publications (2024, 2025) [33; 34; 35].

The second dimension also has a vertical manifestation – within the EU *acquis* itself, between the temporary-protection directive and the Long-Term Residents Directive (Council Directive 2003/109/EC) [14]. The standard condition for obtaining EU long-term resident status is five years of legal residence in a Member State. Yet time spent under temporary protection is not counted towards this five-year term. The reform of the LTRD, designed to eliminate this gap, was initiated by the European Commission as early as 2022, but the recast proposal has been stalled at the co-legislator level [19]. By early 2026 an impasse has

emerged: Ukrainians who have lived under protection in Germany, Poland, or Czechia for up to four years have formally accrued not a single day of qualifying residence towards EU long-term resident status. This disconnection cannot be qualified as a gap in national legislation: both instruments are directives of the EU itself; the disconnection reproduces itself simultaneously at the level of all twenty-seven Member States.

The third dimension is the asymmetry between the supranational, national, and regional levels of multi-level governance. The supranational level – the Council of the EU, the European Commission – adopted the decision to introduce temporary protection by Council Implementing Decision (EU) 2022/382 of 4 March 2022 [15], and subsequently decides on its extensions; the fourth extension in sequence is enshrined in Council Implementing Decision (EU) 2025/1460, in force until 4 March 2027 [16]. Notably, the supranational level itself, in the Council Recommendation of 16 September 2025 – prepared on the basis of the Commission’s proposal COM(2025) 650 final [25] – expressly calls on Member States to transfer beneficiaries onto national residence regimes (labour, study, family permits, Blue Card), without proposing a unified EU framework [17]. In parallel, Regulation (EU) 2024/1359 on situations of crisis and force majeure, entering into force on 1 July 2026, remains within the logic of emergency response and does not address the question of cross-border portability of rights [21]. The national level – the Member States – adapts the Council’s recommendations through domestic legal regimes: from the detailed regulation of coerced even distribution in Germany [7] to spontaneous concentration in Poland [50]. The regional level – cross-border functional zones – is left without any instrument of its own. The comparative picture of national distribution logics is presented in Table 2.

It is important to record a fourth, derivative observation as well, which translates the theoretical frame into a practical register: the three asymmetries reinforce one another. The first-order asymmetry creates the legal foundation for dysfunctionality. The second-order asymmetry transfers it into the plane of jurisprudential practice. The third-order asymmetry makes dysfunctionality spatially discernible. The observation of a policy vacuum in this area is not an authorial extrapolation: the European Parliamentary Research Service in its official briefing of 2024 and in its EP Think Tank post of June 2025 openly recognises that ‘reflections continue on the need to create the conditions to ensure a smooth transition from temporary protection to alternative national legal statuses’ [23; 24]. The European Council on Refugees and Exiles qualifies the overall configuration as ‘an unprecedented situation for an accession country’ [20]. The next step of the analysis is to transfer the general theoretical frame into the plane of comparative empirics across four Member States, and thereafter into the focal case of the Greater Region.

Transferring the theoretical frame into the plane of comparative empirics calls for one preliminary clarification. The incompatibility of the national distribution models recorded in Table 2 is not reducible to differences in absolute beneficiary numbers or in their density per thousand inhabitants. The substantive incompatibility lies deeper – in the operational rationalities by which each of the four countries governs the spatial accommodation of Ukrainian citizens.

Germany operates a model of coerced even distribution, structurally embedded in the German federal system long before 2022 and merely adapted to the Ukrainian context. The Central Register of Foreigners (Ausländerzentralregister, AZR)

records every arriving beneficiary, and the FREE platform distributes individuals among sixteen federal Länder on the basis of the Königstein Key – a formula that takes into account a Land's share of federal tax revenues and its population. The outcome is clearly visible in BAMF data for mid-2024: the share of Ukrainian refugees in the overall population of the Länder varies within a narrow band around 1.3%, with noticeable deviations only for two city-states – Hamburg (1.9%) and Bremen (1.8%). Such evenness is a direct effect of the coerced-distribution logic. The rationality of this model is self-evident: it reduces pressure on individual regions and allows for an even distribution of federal-budget costs. That rationality, however, does not provide for cross-border employment as a standard scenario.

Poland operates a model of spontaneous market concentration. Unlike Germany, the Polish system does not resort to coerced distribution: beneficiaries with a PESEL-UKR number freely choose their place of residence, and their choice is determined by three factors – housing availability, access to employment, and the Ukrainian diaspora existing before 2022. As a result, over sixty per cent of active PESEL-UKR holders are concentrated in five voivodships – Mazowieckie, Wielkopolskie, Dolnośląskie, Śląskie, and Małopolskie. Density in particular poviats reaches eighty-four persons per thousand inhabitants in Wrocław and seventy-two in Pruszków near Warsaw. The rationality of this model lies in minimising administrative costs and in trust in the market mechanism of distribution.

Czechia follows a third model – administrative regulation through the Ministry of the Interior (OAMP MV ČR). Registration for temporary protection is handled through regional Centres for Assistance to Ukrainians (Krajské asistenční centrum pomoci Ukrajině), one per kraj. Formally the choice of residence is free; yet extension of status requires registration at a specific address, which in practice anchors the beneficiary to the original region. The outcome is the dominance of Prague and the Central Bohemian Region in the aggregate number of Ukrainian citizens under protection. Moreover, Czechia is the EU country with the highest ratio of temporary-protection beneficiaries per thousand inhabitants (36.6 at the end of February 2026).

Luxembourg stands apart. This is a country whose entire territory corresponds to a single NUTS-2 statistical region, and the issue of 'internal distribution' in it therefore lacks substantive meaning. Approximately 4 200 Ukrainian beneficiaries are concentrated predominantly in the capital agglomeration and in the southern satellite town of Esch-sur-Alzette. The ratio per thousand inhabitants is about 6.5, some five and a half times lower than the Czech figure. It is telling that precisely in the country with the lowest relative load the employment rate of Ukrainian beneficiaries proves to be the lowest – thirty-one per cent. The reason lies not within Luxembourg but in the blockage of the cross-border option.

An additional feature of the Luxembourg case bears directly on the argument of this study: from September 2025, Eurostat has not received Luxembourg's data on the number of temporary-protection beneficiaries on a regular basis [29]. The last full data refer to the end of August 2025. This fact is not a technical mishap on the part of the national statistical service but a further empirical manifestation of cross-border dysfunctionality: the four Member States that together host about sixty-four per cent of all Ukrainian beneficiaries of the Union are not synchronised with one another even at the level of regularity of reporting to the common European statistical service. Incompatibility, in consequence, reproduces itself at several levels simultaneously: legal, institutional, informational.

Of the four rationalities described, none was designed with cross-border employment as a standard scenario. Each was constructed to address an internal task of the host State. Where, therefore, these four logics come into geographic contact – in cross-border functional zones – each continues to operate independently of the others, producing a dysfunction that is irremovable within a single national policy. This general regularity becomes particularly clear in the examination of a specific cross-border zone in which the incompatibility is most fully manifest.

Setting aside differences in scale and examining the data of Table 2 in a functional cross-section, a regularity emerges that is essential for the conceptual frame of the present study. Each of the four countries acts within its own rationality, and that rationality is not derivative of the rationalities of its neighbours. Germany optimises for evenness of burden across the Länder; Poland, for the spontaneous logic of housing and labour markets in major cities; Czechia, for administrative manageability through the centre; Luxembourg, for capital-city concentration rooted in the very structure of the country. The difference lies not in the intensity with which a single model is applied, but in the non-coincidence of the models themselves. What follows from this:

- the models govern different spatial units (NUTS-1, -2, -3, and the entire country treated as a single region);
- the models rely on incompatible registries (AZR, PESEL-UKR, OAMP, national interior-ministry systems);
- the models do not exchange data with one another on a regular basis – the absence of Luxembourg's data for six consecutive months corroborates this at the level of the statistical infrastructure itself;
- the models set different concentration ratios, differing sixfold (from 6.5 in Luxembourg to 36.6 in Czechia).

Four countries hosting about sixty-four per cent of all Ukrainian beneficiaries of the Union operate within four mutually incompatible logics – and that incompatibility manifests most acutely where these countries come into geographic contact. This is precisely the empirical test of the hypothesis set out in above: the observed fragmentation is not random but structural.

The three CJEU rulings presented in Table 3 were delivered by different compositions of the Court, on different factual circumstances, and over a span of eleven months. Despite this, they form a unified jurisprudential line: each successive ruling refines the territorial anchoring of beneficiaries' rights without extending it. Kaduna confirms that the configuration of status remains in Member States' hands. Krasiliva entrenches the principle of 'one temporary protection at one time'. Framholm denies automatic conversion of status and expressly records the obsolescence of TPD relative to the Common European Asylum System. It follows from this that:

- the CJEU does not dissolve dysfunctionality but consistently records it in jurisprudential form;
- an instrument for correcting the territorial anchoring of rights cannot be found through judicial means and must be created by the EU legislator;
- the twenty-year gap between TPD (2001) and CEAS (acts of 2011, 2013, 2024) continues to accumulate without an institutional response;
- the burden of compensating for dysfunctionality is thereby shifted onto national and regional levels that are not equipped for it.

The picture assembled from Tables 2 and 3 is unambiguous. The empirical section (Table 2) displays the incompatibility of the national models. The jurisprudential section (Table 3) displays the absence of a judicial mechanism for their alignment. Between these two sections lies the ‘middle-link vacuum’ – the space where the middle level of MLG should today be operating but is not. It is precisely the filling of this space that constitutes the substance of the practical recommendations of the article.

The Greater Region – the cross-border zone uniting the Grand Duchy of Luxembourg, the Belgian Walloon Region and the French-speaking Community of Belgium, the German federal Länder of Saarland and Rhineland-Palatinate, and the French region of Grand Est (formerly Lorraine) – constitutes the most integrated cross-border functional zone in the European Union. According to the Luxembourg Institute of Socio-Economic Research (LISER), in 2023 Luxembourg employed 216 522 cross-border workers, almost half of whom resided in the Northern Moselle area of Lorraine [39]. By the first quarter of 2024, the total number of cross-border commuters entering the Grand Duchy daily reached 231 290 – approximately 47% of the country’s total labour force [5]. Of these, roughly 120 000 come from France, 50 000 from Germany, and 50 000 from Belgium. This cross-border employment is not exceptional but the dominant form of labour relations in the Greater Region: in particular Lorraine communities, such as Pays-Haut Val d’Alzette, up to eighty per cent of the working-age population are employed in Luxembourg. The structure of these flows is shown graphically in Figure 1.

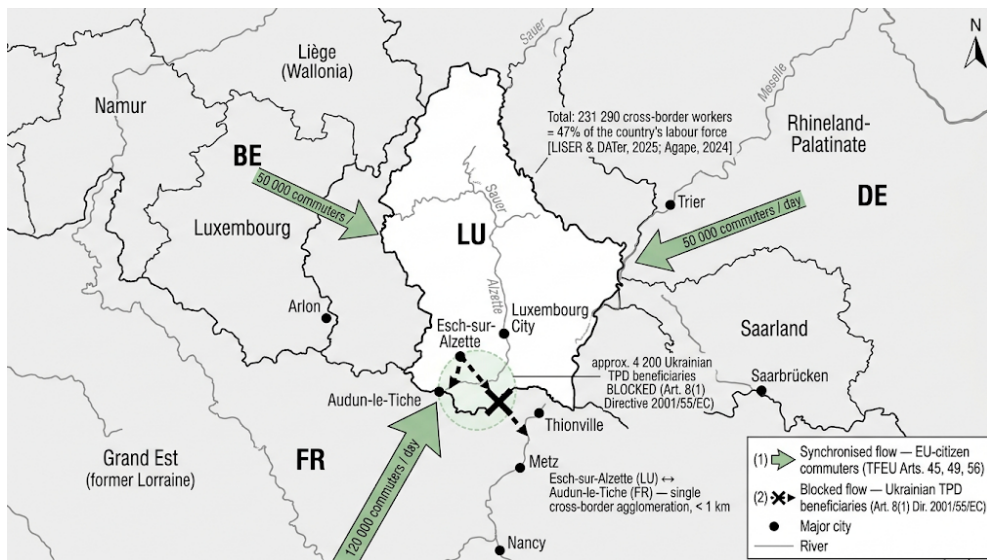


Figure 1. Desynchronised labour-mobility flows in the Greater Region (2024–2026)

Label sources: [39]; [5]; [29]; [37].

A conceptualisation of this cross-border dynamic through the lens of dynamical systems theory has been proposed earlier in a joint work by the author of the present article with C. Wille, D. Yampolskyi, and M. Yampolskyi [37]. In that work, cross-border cooperation is treated as the interaction of two or more

subsystems forming stable attractors, with the phase trajectories of managerial decisions serving as indicators of synchronisation or desynchronisation among those subsystems. Applied to the situation of Ukrainian temporary-protection beneficiaries in the Greater Region, the WP 29 framework yields the following result: the ordinary cross-border flows of commuters, operating within the coordinates of the four internal-market freedoms, constitute a synchronised attractor – many-year, relatively stable, and reliably measured in daily and weekly dynamics. The rights regime of temporary-protection beneficiaries forms a different, desynchronised attractor – since the rights derived from TPD are not transported across the border under the same conditions as the rights of EU citizens. Within one and the same physical region, two phase trajectories coexist without common points: one functional, encompassing 231 290 persons daily; the other territorial, blocking an analogous cross-border transition for about 4 200 Ukrainian beneficiaries.

This coexistence of two desynchronised attractors is not a theoretical abstraction but an observable everyday phenomenon. A citizen of France, Belgium, or Germany crosses the internal EU border daily to work in Luxembourg, presenting nothing more than an identity document and undergoing no additional procedure. A Ukrainian beneficiary residing five hundred metres from the same border on the Luxembourgish side cannot cross it to take legal employment in the same French commune of Audun-le-Tiche, because the residence permit is territorially confined to Luxembourg. The distance between these two persons may amount to less than a kilometre; the distance between their legal statuses in the logic of the EU internal market is a magnitude not measurable in kilometres. It is precisely this discrepancy, built into the MLG architecture and reproduced daily at every internal border of the Greater Region, that we conceptualise as cross-border dysfunctionality. Its systemic structure and the points of possible corrective intervention are shown in Figure 2.

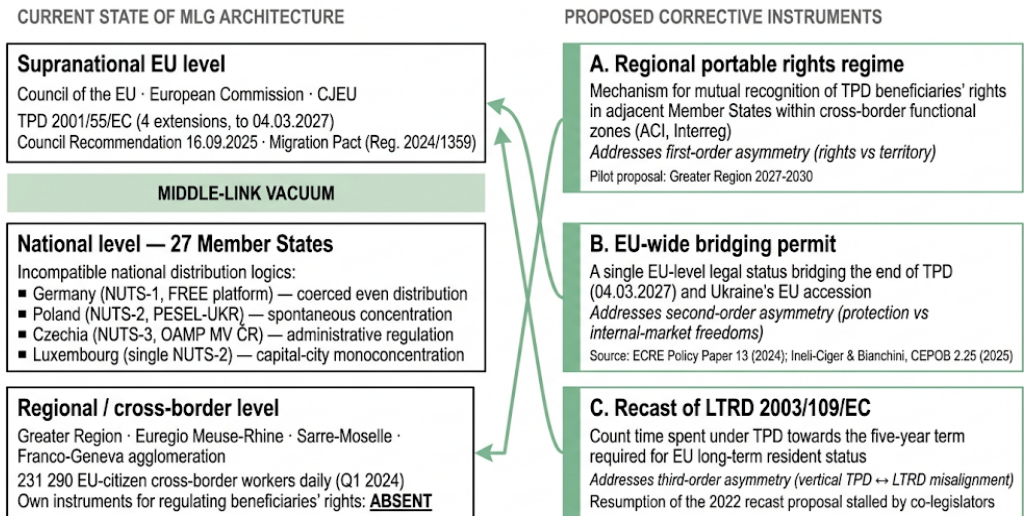


Figure 2. Three-tier MLG architecture and proposed corrective instruments for beneficiaries' rights

*Sources: authorial elaboration based on [19]; [22]; [36]; [16]; [17]; [37].

The Greater Region thus functions as an empirical test of the proposed theoretical frame. If the hypothesis of the structural, not incidental, character of dysfunctionality is correct – and the data set out in this article support that hypothesis – then in any other cross-border functional zone of the EU where the density of cross-border employment of EU citizens is high, an analogous picture should be reproduced with an allowance for scale. Preliminary observations concerning Euregio Meuse-Rhine (about 30 000 daily commuters), Sarre-Moselle, and the Franco-Geneva agglomeration corroborate this prediction. Empirical corroboration of the prediction across other cross-border zones lies beyond the scope of the present article, yet it sets the prospect of subsequent research.

Conclusions and prospects for further research. The study conducted has made it possible to conceptualise cross-border dysfunctionality in the architecture of European Union multi-level governance as a new analytical category of public administration, unfolding through three interrelated dimensions – the asymmetry between the logic of rights and the logic of territory, the asymmetry between the protection regime and the regimes of the economic freedoms of the internal market, and the asymmetry among supranational, national, and regional levels. The category is not a one-off characteristic of a single legal instrument; it reflects a systemic property of the interaction of three subsystems of the Union's public administration under the prolonged persistence of the temporary-protection regime against its originally short-term design.

The empirical verification of the proposed concept on the material of four Member States – Germany, Poland, Czechia, and Luxembourg, which together host about sixty-four per cent of all Ukrainian temporary-protection beneficiaries in the EU – has confirmed the working hypothesis. The four countries operate within four mutually incompatible operational rationalities for the spatial distribution of beneficiaries, not aligned with one another either in NUTS level of management, or in registries of record-keeping, or in mechanisms of regular reporting to the common European statistical service. This incompatibility reproduces itself particularly acutely in the cross-border functional zones where the national models come into geographic contact – above all in the Greater Region.

The political component of the problem deserves a distinct emphasis. The supranational level of the EU, in its most recent official acts – Council Implementing Decision 2025/1460 on the fourth extension of TPD, the Council Recommendation of 16 September 2025, and Regulation 2024/1359 within the Migration Pact – does not dissolve the fragmentation but, in fact, consolidates it, orienting Member States towards differentiated national pathways out of the protection regime. At the same time, the European Parliament, through its research service EPRS, publicly acknowledges the unfilled space between TPD, LTRD, and enlargement policy. This conjunction legitimises the authorial framing of the question and opens a political window for its practical application up to March 2027.

From what has been said, it follows that the need for a revision of European legislation is not a theoretical recommendation but something that follows from the very structural make-up of the MLG architecture. The revision should cover three levels. The horizontal level – the introduction of a regional regime of portability of beneficiaries' rights in cross-border functional zones, piloted through Interreg instruments. The vertical level – the resumption of the stalled reform of the Long-Term Residents Directive 2003/109/EC, with time spent under temporary protection counted towards the required five-year term. The strategic level – the design of an EU-wide bridging permit that links the conclusion of the temporary-

protection regime to the trajectory of Ukraine's accession, in keeping with the logic of the sixth wave of Union enlargement.

The prospects for further research are outlined in three directions. First – verification of the proposed theoretical frame on the material of other cross-border functional zones of the European Union, above all Euregio Meuse-Rhine and Sarre-Moselle, with measurement of the reproducibility of the regularity across variations in scale. Second – an empirical alignment of the authorial concept with Ukraine's accession-negotiation agenda under clusters 2 and 3, where the position of temporary-protection beneficiaries could be articulated as a self-standing negotiating position of Ukraine. Third – longitudinal observation of the evolution of EU instruments in the period up to March 2027, opening the possibility of recording the moment of transition from conceptual reflection to the practical institutionalisation of the middle MLG level.

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Кірюхін Олексій Михайлович,
асоційований науковий співробітник,
Центр прикордонних досліджень UniGR, Люксембурзький університет
11, Porte des Sciences, L-4366 Esch-sur-Alzette, Люксембург
e-mail: kiryukhin.research@gmail.com ORCID: <https://orcid.org/0009-0006-8797-1417>

ТРАНСКОРДОННІ АСИМЕТРІЇ БАГАТОРІВНЕВОГО УПРАВЛІННЯ В ЄС: ПРИКЛАД ГРОМАДЯН УКРАЇНИ, ЯКІ ПЕРЕБУВАЮТЬ ПІД ТИМЧАСОВИМ ЗАХИСТОМ

Анотація. Стаття присвячена концептуалізації транскордонної дисфункціональності в архітектурі багаторівневого управління Європейського Союзу як нової аналітичної категорії публічного управління. Актуальність зумовлена безпрецедентною ситуацією, за якою близько 4,40 млн українських громадян (на февраль 2026 р.) перебувають у ЄС під тимчасовим захистом (TPD 2001/55/EC), тоді як Україна є країною-кандидатом на вступ із завершеним скринінгом *acquis*. Метою дослідження є концептуальне та емпіричне обґрунтування трьох вимірів асиметрії MLG – між логікою прав та логікою території, між режимом захисту та режимами свобод внутрішнього ринку, між наднаціональним, національним та регіональним рівнями управління. Застосовано три методологічні підходи: системний (теорія Н. Лумана, теорія динамічних систем), історико-логічний (реконструкція еволюції TPD від 2001 р. до чотирьох продовжень) та порівняльний (типологічний метод Ч. Рагіна, ідеально-типова конструкція М. Вебера). Емпіричною базою є офіційні дані Євростату, BAMF, UNHCR і LISER. Порівняльний аналіз Німеччини, Польщі, Чехії та Люксембургу – країн, що приймають близько 64% усіх БВЗ Союзу, – підтверджує гіпотезу про структурний характер фрагментації *post-TP* режимів: чотири несумісні національні логіки розподілу коефіцієнти, що розрізняються у шість разів (6,5 vs 36,6 на 1000 осіб). Фокусним кейсом обрано Великий регіон, де 231 290 фронтальєрів-громадян ЄС щоденно перетинають кордон до Люксембургу, тоді як ~4 200 українських БВЗ заблоковані територіальною прив'язкою ст. 8(1) TPD. Практична цінність полягає у формуванні аналітичного інструментарію для переговорної позиції України у кластерах 2 та 3 вступних переговорів та пропозиції трьох коригувальних інструментів: регіональний портативний режим *regime*, EU-wide bridging permit, реформа LTRD 2003/109/EC.

Ключові слова: багаторівневе управління, транскордонна дисфункціональність, тимчасовий захист, регіональна політика, Великий регіон, розширення ЄС, українські біженці, *portable rights*, EU-wide bridging permit.

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