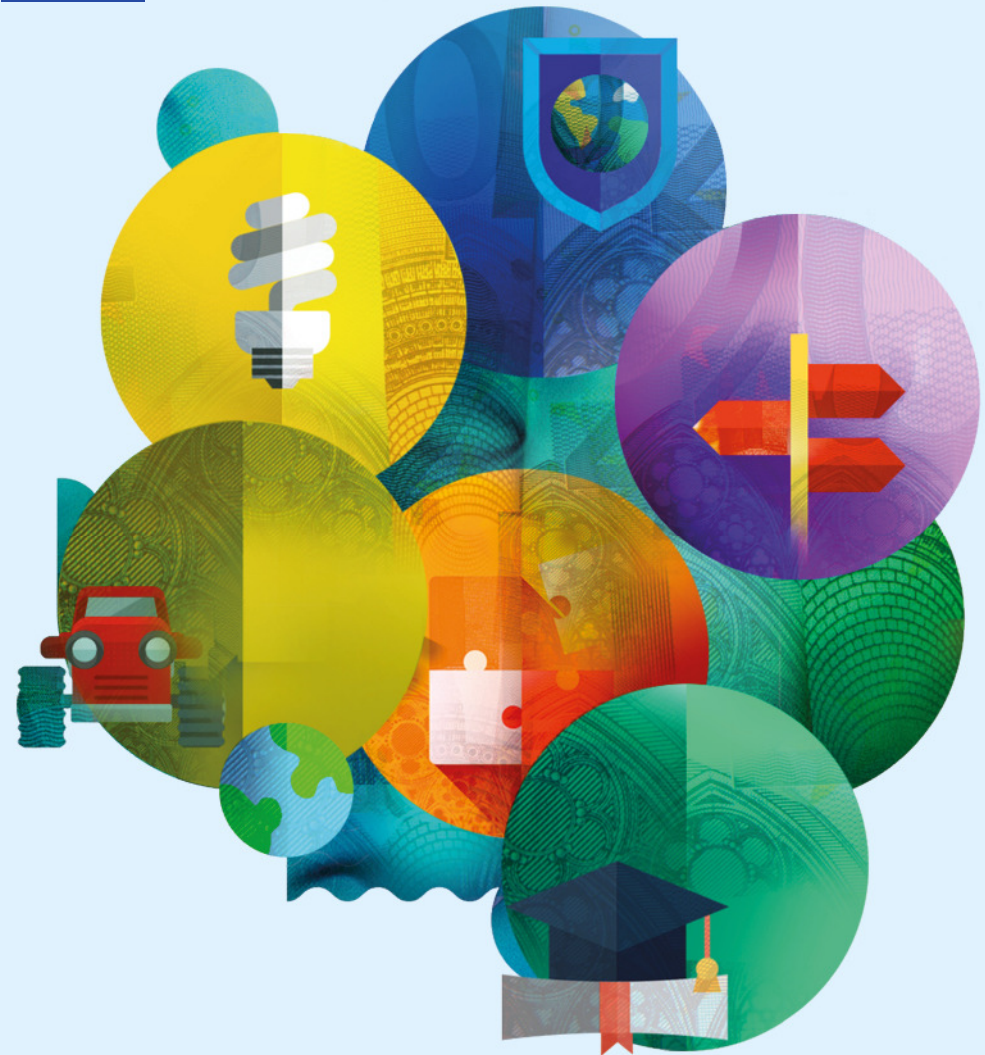




EU Budget for the future **ECBM**

**12 June – German
Länder**

*#CohesionPolicy
#EUinmyRegion*



European Cross-border mechanism

- **Basic and simple principle:**
Apply rules of MSt 1 on joint projects implemented in MSt 2 (Article 1(1))
- **Voluntary instrument, but effective system on each border obligatory!**
(4)
- **MSt may opt to join existing way (§2)**
- **MSt may opt to apply mechanism on maritime and external borders (§3)**
- **MSt shall inform COM about options taken (§4)**
- **Cross-border Coordination Points at national/regional level (5 and 6)**
- **Commission Border Focal Point (7)**
- **5 Steps (8 to 20)**
- **Legal protection (21 and 22)**
- **Final provisions (23 to 26)**

Some basic notions

Condition:

"legal provision": any legal/administrative provision, rule or administrative practice

"legal obstacle": any legal provision that obstructs

"joint project": item of infrastructure or SGEI

Mechanism: ECB Commitment or ECB Statement

Reg. applies only to cross-border regions (NUTS 3 level) (Article 2(1))

Cross-border Coordination Points (Article 5)

Coordination tasks of COM – Border focal Point (Article 7)

CBCPs

MSt decide whether CBCP concludes/signs ECBC/ECBS (§2)

- Obligatory tasks (Article 5(1))
- Optional tasks (Article 5(2))

COM

- Liaise with CBCPs
- Publish and keep up-dated a list of all CBCPs
- Database on all ECBCs and ECBSs
- DelAct on functioning of data base

European Cross-border mechanism

Step 1 – Preparation and submission of initiative document (8 and 9)

Step 2A – Preliminary analysis by committing and transferring MSt (10 and 11)

Step 2B – Follow-up (12)

Step 3 – Preparation and conclusion/signature of ECBC/ECBS (13 to 17)

Step 4 – Implementation (18 and 19)

Step 5 – Monitoring (20)

Step 1 - Preparation and submission of the initiative document (Articles 8 and 9)

"Initiator" shall identify the legal obstacle:

- **Joint project promoter**
- **Local/regional authority**
- **Cross-border body with/without legal personality (EGTC, Euregio)**
- **CB organisations (AEBR, MOT, CESCO)**
- **those jointly!**

Initiator shall prepare an initiative doc and submit to CBCP of committing MSt and send copy to CBCP of transferring MSt

Step 2A – Preliminary analysis (Articles 10 + 11)

Within three months, CBCP of comm MSt shall take action:

- Declare initiative admissible
- Request revised initiative
- Inform that there is no legal obstacle
- Inform that the legal obstacle is just admin. provision, rule or practice → no ECBC needed → authority will act
- Inform that the legal obstacle is just admin. provision, rule or practice → no ECBC needed → no action → Mechanism stops here
- Commits to sign a ECBC or launch an ECBS within six (+ 6) months

In parallel, also analysis in transf MSt

Step 2B – Follow-up (Article 12)

On receipt of revised initiative, within 3 months actions under Article 10

Revised initiative still not admissible → Mechanism stops here

Final analysis by CBCP or comm authority that there is no obstacle → Mechanism stops here

Final analysis confirms that legal obstacle is just admin. provision, rule or practice → comm authority will refuse to change or will change within eight (+ 8) months

Step 3 - Preparation of draft ECBC or ECBS (Articles 13 and 14)

CBCP or comm authority prepares a draft (Article 13)

Content (Article 14)

- Joint project
- List of provisions = legal obstacle
- Area, duration
- Competent authorities in both MSt for legal provisions
- Specific legal provisions of transf MSt (or *ad hoc* solution)
- Competent authorities for implementation and monitoring
- Entry into force and (ECBC) of application
- ECBS: date by which legislative procedure will be launched (max. 12 months)

Step 3 - Preparation of draft ECBC or ECBS (Articles 15 and 16)

Comm authority prepared draft (Article 15(1)):

- Within 3 months transmit to CBCP in comm MSt
- Within 8 months transmit to CBCP in comm MSt (admin. provision, rule or practice under Article 12(4) or (5))

CBCP prepared draft or received it from comm authority (Article 15(2)):

- Within 3 months transmit to CBCP in transf MSt
- Within 8 months transmit to CBCP in transf MSt (admin. provision, rule or practice under Article 12(4) or (5))

Options in transf MS (Article 16(1))

Agree, sign and send back to CBCP

Correct, supplement, agree, sign and send back

Refuse to sign, but send back a revised draft

Refuse and justify

Step 3 - Preparation of draft ECBC or ECBS (Article 17)

CBCP examines reply from transf MS and shall take action within one month (Article 17(1)):

- **Sign also and send back to CBCP of transf MSt**
- **Amend, sign and send back to CBCP of transf MSt**
- **Inform initiator that transf MSt refused**
- **Consider amendments proposed, accept, amend, sign and send back to CBCP of transf MSt**
- **Consider amendments proposed, refuse some or all amendments and launch 2nd round by sending back to transf MS**

Once, CBCP has received ECBC/ECBS signed by transf MSt:

Transmit final ECC/ECBS to initiator

Transmit second copy to CBCP of transf MSt

Send copies to all comm authorities + to COM

Step 4 - Implementation ECBC or ECBS (Articles 18 and 19)

ECBC: Copy sent to all comm authorities + timetable for each authority to adopt or amend administrative acts (Article 18(1))

Copy of timetables sent to national/regional CBCPs (§2)

Administrative acts adopted/amended/notified under national law (§3)

Once, all administrative acts adopted, CBCP shall inform COM of transf MSt and COM (§4)

ECBS: Each comm authority shall submit by the date fixed a formal proposal to amend legislation (Article 19(1))

If delayed, information of initiator, CBCP of both (§2)

Once in legislative body, up-date every six months (§3)

Once amending act adopted, implementation as for ECBC (§§4 to 6)

Step 5 – Monitoring (Article 20)

Based on administrative acts, both MSt agree on which authority shall monitor the respect of ECBC/ECBS and administrative acts:

- Authorities of transf MSt (know better the “transferred” rules)
- Authorities of comm MSt (know better legal system of comm MSt)

Even where authorities of transf MSt monitor, both MSt agree whether they act on behalf of the comm authorities and in their name or in their own name

Legal protection (Articles 21 and 22)

Application of ECBC/ECBS (Article 21):

"Person resident in the cross-border region " ≠ "resident “,

but resident and users of infrastructure or SGEI

Who considers itself wronged by the acts or omissions by the application of an ECBC or ECBS → legal redress at courts in comm MSt

Legal redress against administrative acts
→ legal redress at courts in comm MSt courts

No derogation to constitutional rights (language, access to info)

Monitoring of ECBC/ECBS (Article 22):

Authorities act in their own name → where a person is "resident “

Authorities do not act in their own name → only courts of comm MSt

Final provisions (Articles 23 to 26)

Committee procedure (Article 23): on COM's data base

MSt Implementing provisions (Article 24):

- MSt shall make such provisions to implement Regulation effectively (§1)
- MSt shall inform by date of application (§2)
- COM shall such information make public (§3)

Reporting (Article 25): by entry into force + 5 years

Entry into force (Article 26): 20th day after publication

Application (Article 26): Entry into force + 1 year



European
Commission

**Thank you for your
attention!**

