

RESOLUTION (EU) 2023/1963 OF THE EUROPEAN PARLIAMENT**of 10 May 2023****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy (F4E) for the financial year 2021**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2021,
 - having regard to Rule 100 of and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control (A9-0092/2023),
- A. whereas the European Joint Undertaking for ITER and Development for Fusion for Energy (the 'Joint Undertaking') was established in April 2007 for a period of 35 years by Council Decision 2007/198/Euratom ⁽¹⁾;
- B. whereas the Joint Undertaking started to work autonomously in March 2008;
- C. whereas the members of the Joint Undertaking are the European Atomic Energy Community (Euratom), represented by the Commission, the Member States of Euratom, and third countries which have concluded a cooperation agreement with Euratom in the field of controlled nuclear fusion;
- D. whereas the objectives of the Joint Undertaking are to provide the Union's contribution to the ITER international fusion energy project, to implement the broader approach agreement between Euratom and Japan, and to prepare for the construction of a demonstration fusion reactor and related facilities;
- E. whereas the ITER project involves seven global partners, namely, the Union, represented by Euratom, the United States, Russia, Japan, China, South Korea and India, with the Union taking the lead with a share of 45,4 % of the construction costs and other partners involved 9,1 % each; which will change in the operational fusion testing phase, with the Union providing 34 % of the operating costs ⁽²⁾;
- F. whereas the total outlay provided for by the Union to implement its obligations and the associated activities under the ITER agreement until 2031 amounts to EUR 18,2 billion (in current values) ⁽³⁾;
- G. whereas, following the United Kingdom's withdrawal from the Union and Euratom on 31 January 2020 and the failure by the parties to conclude the protocol provided for in the Trade and Cooperation Agreement between the Union and Euratom and the United Kingdom agreed on 30 December 2020, the United Kingdom is still not associated to the ITER project or a member of the Joint Undertaking and thus does not contribute to its budget;
- H. whereas the impact of the Russian illegal, unprovoked and unjustified war of aggression against Ukraine and its consequences on the Joint Undertakings activities is still hard to measure;

⁽¹⁾ Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p. 58).

⁽²⁾ The ITER documents 'Value estimates for ITER Phases of Construction, Operation, Deactivation and Decommissioning and Form of Party Contributions' and 'Cost Sharing for all Phases of the ITER Project'.

⁽³⁾ Estimates are based on the Commission Communication COM(2017) 319 of 14 June 2017 and the related staff working paper SWD(2017) 232, table 4.

General

1. Welcomes the fact that the report of the Court of Auditors (the 'Court') on the Joint Undertaking's annual accounts for the financial year of 2021 (the 'Court's report') finds the annual accounts to present fairly, in all material respects, its financial position on 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the financial year 2021, in accordance with its financial rules and with the accounting rules adopted by the Commission's accounting officer; highlights, in addition, the fact that the underlying transitions to the accounts for the financial year 2021 are, in all material respects, legal and regular;
2. Regrets, however, that the Court's report draws attention to the fact that the Joint Undertaking's annual accounts for the financial year 2021 disclose the Joint Undertaking's estimate of the total cost for completing its delivery obligations for the ITER project, assessed at EUR 18,3 billion (in 2021 values) and to the fact that changes in key assumptions for the estimate and risk exposure could lead to significant increases in costs and/or to further delays in the implementation of the ITER project;
3. Acknowledges that Horizon Europe envisages ambitious goals for the Joint Undertaking, that can be achieved only if effective solutions that address the weaknesses in the internal control systems and prepare for the future challenges arising from increased responsibilities, such as in the area of human resources management and planning, are designed and implemented; points out, in this context, that particularly complicated and burdensome calculations and reporting requirements represent a significant risk of error and calls therefore, to explore the possibilities of simplifications wherever possible and compatible with the existing legal framework;
4. Notes with concern the fact that since Russia is a member of ITER-IO, with the obligations to deliver to the ITER assembly site in France (Cadarache), several components for the ITER projects and to provide annual contributions to the ITER-IO, represents a risk of further delays and increased costs for the ITER project;
5. Notes that the Joint Undertaking maintains an estimate of the total costs of completing its delivery obligations for the ITER project (estimate at completion), which includes the costs of the construction and operational phase until 2035, as well as the decommissioning and deactivation phase until 2042; notes, moreover, that at the end of 2021, the Joint Undertaking assessed this total cost at EUR 18,3 billion (in 2021 values), consisting of the total payments made at the end of 2021, amounting to EUR 8,3 billion and the estimate of the future payments, assessed at EUR 10 billion (in 2021 values);
6. Points out that changes in key assumptions for the above estimate and risk exposure may lead to further cost increases and projects delays and, for 2021, considers that, based on the Court's report, special attention should be paid to the events that may have a significant impact on the estimate at completion; further, points out that those key assumptions include the new baseline for the ITER project planned for the first quarter of 2023, the late delivery of components, the sanctions imposed on Russia, the ongoing approval of the French Nuclear Safety Authority (NSA) for the assembly of the components of the tokamak pit and the expected revision of the cost estimate for the Hot Cell Complex; underlines the fact that, in the event of delivery problems resulting in the lack of crucial components for the continuation of the project, alternative supply streams should be explored;
7. Recalls that ITER officially expects a first operational test in 2025 and the achievement of full fusion power by 2035; observes, however, that this baseline was adopted in 2016, and that, since then, construction and manufacturing delays and the COVID-19 pandemic have made the 2025 date increasingly unlikely; underlines, in addition, that, according to the Court's report, there is a risk of further delay due to a combination of different construction starting from problems welding the vacuum vessel sections that form the steel chamber in which the fusion experiments will take place to the problem of corrosion causing cracks up to 2,2 millimetres deep on the thermal shield panels, affecting all 23 kilometres of cooling pipes welded to the component surface; notes that, due to the fact that the crack issue in the cooling pipes could be systemic, affecting all thermal shield components of tokamak, the new direction of ITER activates a repair strategy for the tokamak's thermal shield panels and vacuum vessel sectors;

8. Notes that the duration and cost of the repairs cannot be precisely estimated at this stage and that the ITER Council plans to adopt a new ITER baseline at the end of 2023, setting out the calendar for certain achievements, which will significantly push back the dates when it expects to accomplish key milestones and consequently impact the estimate at completion; calls on the Joint Undertaking to report on the outcome and the expected delays as well as the consequences for the completion of the ITER project;
9. Notes that, as regards nuclear safety requirements, the NSA has the ultimate authority to approve any further changes in designs affecting the nuclear safety requirements, and that, in this context, at the beginning of 2021, the Joint Undertaking formally applied for the NSA's approval of the new welding design and technology related to the assembly of the components of the tokamak pit; underlines, however, that additional information from the Joint Undertaking to finalise the NSA's analysis was not requested by NSA before January 2022; notes that, while NSA's approval is part of the ITER-IO's normal assembly process, it may, however, result in an additional delay of several months and consequently impact the estimate at completion;
10. Calls on the Joint Undertaking to revise the cost estimate for the Hot Cell Complex in order to allow for the preparation of a reliable cost estimate in line with the current maturity stage of the ITER-IO design requirements;

Budgetary and financial management

11. Notes that, in December 2020, the Joint Undertaking's governing board adopted the Joint Undertaking's original budget for 2021 for EUR 1 048,77 million in commitment appropriations and EUR 742,81 million in payment appropriations and that the governing board amended this budget in November 2021;
12. Welcomes the fact that the final available appropriations, including the carry-over from the previous year, amount to EUR 1 069,88 million in commitment appropriations and EUR 764,83 million in payment appropriations;
13. Notes that the implementation rates for commitment and payments appropriations were 99,7 % and 97,4 % respectively (compared to 100 % and 98 % in 2020);
14. Notes that, from EUR 1 069,88 million available for commitments appropriations, 88,4 % was implemented through individual commitments (corresponding to EUR 942,50 million);
15. Notes with satisfaction that, following the 2020 discharge recommendation on the calculation method for the 2020 membership contributions, the Joint Undertaking has adopted corrective measures, in particular the draft single programming document, to avoid the issue being raised by the Court again;
16. Notes, therefore, that, regarding the 2021 membership contributions, the Joint Undertaking has used the annual and multiannual programme 2020-2024 adopted by its governing board on 10 December 2019, with EUR 6,5 million estimated for the membership contributions;
17. Notes that, since January 2016, those joint undertakings that are only partly financed from the Union budget are required to pay the part of the employer's contributions to the Union pension scheme, corresponding to the ratio of their third-country subsidised revenues to their total revenues (*); is concerned that, as the Commission has neither provided for this expenditure in the joint undertakings' budgets nor formally requested the payments, the joint undertakings have not yet paid such contributions; calls on the Commission to take steps to avoid similar issues in the future;

(*) Article 83a of Regulation No 31 (EEC), 11 (EAEC) laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385/62).

18. Calls in this regard that, in line with the Commission's guidance to the joint undertakings, on the Commission's Office for Administration and Payment of Individual Entitlements to calculate the employer contribution for each joint undertaking as a percentage of the third-country revenue related to the total revenue of the Joint Undertaking, including third-country revenue for operational expenditure; notes that, for ITER, this percentage share was set at 21,6 % for the period 2017-2020 or around EUR 5,8 million, and at 19,8 % for the year 2021 or around EUR 1,5 million; underlines, in addition, that that guidance only takes account of the respective provisions of the Staff Regulations in determining the calculation method for the joint undertakings' payments of employer contributions to the Union budget based on revenue;
19. Calls on the Joint Undertaking not to wait for the final calculation of outstanding contributions, but to consider this obligation when planning its future budget, such as through a corresponding accrual for pension contributions;
20. Is aware, however, that the relevant provisions of the Joint Undertaking's Statutes require that the total amount of membership contributions shall not exceed 10 % of the Joint Undertaking's annual administrative costs, suggesting an employer contribution of around EUR 740 013 per year for the Joint Undertaking (based on 2021 figures); notes, therefore, that the concurrence of these different legal provisions risks the elaboration of diverse interpretations regarding the calculation of the Joint Undertaking's employer contribution, with varying financial impact and expects that this legal uncertainty is removed without any delay; welcomes the Joint Undertaking's preparedness to engage with the Commission for a clearer alignment of the relevant legal bases;

Performance

21. Notes that 2021 was the first year of the 2021-2027 Multiannual Financial Framework;
22. Welcomes the fact that, during 2021, the Joint Undertaking has further progressed in the work and continued the delivery of some of the major components to ITER in order to start the assembly activities according to plan for the achievement of First Plasma at the end of 2025; notes that the ITER Organisation is currently replanning the first plasma baseline, the outcome of which was expected to be decided by ITER Council in 2022 and that the Joint Undertaking will subsequently adjust its planning accordingly;
23. Notes that, after 10 years, the Joint Undertaking transferred the responsibility of the buildings site coordination to the ITER Organisation; notes that, according to the planning attached to the public arrangement for building construction, that transfer was planned for September 2018, once the main construction risks on the site were no longer present;
24. Notes that, during 2021, the COVID-19 pandemic continued to have a significant impact on the Joint Undertaking's supply chain, as many of the Joint Undertaking's suppliers were affected by restrictions on work attendance and travel, and ongoing and future efficiency impacts due to enhanced sanitation measures required in most Member States; regrets that delays in some deliveries were up to four months, resulting in a 'cost at completion' impact of EUR 45 million (EUR 57 million in 2020 – both in 2008 values);
25. Notes, in addition, that the indirect effect of the COVID-19 pandemic is still having impact on many of the Joint Undertaking's contracts, due to the high increases in prices of raw materials, and that the effect on cost at completion is still under estimation; notes, nevertheless, that the impact of the COVID-19 pandemic is serious but not substantial and that the result of 2021 financial statements is not material;

Prevention of fraud and conflicts of interest

26. Notes that the anti-fraud and ethics officer promoted and coordinated the implementation of the Joint Undertaking's anti-fraud strategy and the accompanying anti-fraud action plan covering the period 2020 through 2023;

27. Welcomes the fact that the implementation of the actions in the anti-fraud action plan is systematically monitored through a dedicated database which details the scope of each action, the action owner and the target date for its implementation and that good progress has been achieved as regards the implementation of anti-fraud actions;
28. Notes, in addition, that in 2021, information and support on fraud prevention matters was provided on an ongoing basis, notably to staff involved in procurement, contracts management and finance and that the Joint Undertaking's internal network of fraud correspondents was kept informed individually and in the context of the regular assurance network meetings;
29. Appreciates that rules, procedures, processes and best practices in ethics and prevention and management of conflicts of interest have been communicated to staff in 2021, including via the Joint Undertaking's manual with specific chapters on ethics & integrity and fraud prevention, a page on whistleblowing, as well as a section on the prevention and management of conflicts of interest;

Staff and recruitment

30. Regrets that, in November 2021, the staff of the Joint Undertaking went on strike and that, according to internal and external management assessments and several internal surveys, the main reasons for the deterioration of the working environment at the Joint Undertaking were shortcomings at senior management level, such as non-transparent and dysfunctional decision-making and a lack of social dialogue; notes, furthermore, the disproportionate use of external staff resources increased challenges and risks for the working environment, which was confirmed by the representatives of the Joint Undertaking's staff and their formal letters, sent to the responsible Commissioners; notes that the Commission (Directorate-General for Energy), in its reply to the letters, stated that the 2022 annual assessment of the Joint Undertaking will exclusively focus on human resource management matters and has encouraged the Joint Undertaking in using a 360-degree management assessment for its management team;
31. Notes with concern that the Joint Undertaking has become more dependent on external staff in recent years; stresses that this Court's observation remained outstanding since 2019 when the external staff represented 62 % of statutory staff of the Joint Undertaking; highlights that according to the Joint Undertaking's current strategic resource plan for 2021-2027, the number of external staff is envisaged to increase in 2022 to 93 % of the maximum statutory staff number approved by the Commission, and then gradually decrease to 70 % by 2027; recalls that this situation presents significant risks for the Joint Undertaking concerning the retention of key competences, unclear accountability, possible judicial disputes, and lower staff efficiency due to decentralised management; emphasises, moreover, that the use of interim staff should remain a temporary solution; reminds that the Joint Undertaking's management should strengthen the measures already undertaken to mitigate the risks related to the use of external staff, in particular, the risk of inefficient management due to the unclear division of responsibilities between statutory and external staff;
32. Notes that mistakes relating to human resources cannot be repeated and a change in management culture is necessary and must be maintained; notes, further, that increased efforts relating to human resources are needed to avoid cases of long-term vacancies, high staff turnover, excessive numbers of external staff, dependence on expertise of a few members of staff, extreme workloads and resulting staff absences and inefficiencies; calls for increased efforts to create attractive and socially fair employment conditions that support the achievement of the Joint Undertaking's objectives;
33. Supports that, in response to the situation, the Joint Undertaking has launched several actions to improve the working environment and wellbeing of staff; observes that those actions were integrated into a change agenda, targeting excessive workload, negative working atmosphere, and a lack of communication by the management on the planned organisational changes and it is expected that they will be effective, given the reported events;

34. Notes that the Joint Undertaking's Learning & Development (L&D) continued to offer a larger variety of online and digital resources giving increased flexibility and the freedom to learn when desired and needed; notes, moreover, that a total of 94 % of the members of staff enrolled to at least one learning activity during 2021 and that the rate of satisfaction from the staff concerning internal L&D activities was high – 88 % of the Joint Undertaking's staff rated them either excellent or good;
35. Notes that, as of 31 December 2021, the occupied staff posts at the Joint Undertaking included 47 officials, 226 temporary agents and 166 contract agents, notes, in addition, that the Joint Undertaking relied on the support of 11 interim staff (in FTE) and two seconded national experts;
36. Notes from the 2021 annual activity report that there is no appropriate gender balance among the Joint Undertaking's members of staff and management, with only 19 % of staff and less than 10 % of management and off staff recruited in 2021 being women; regrets these figures and calls for increased efforts in terms of gender balance;
37. Notes that, following the survey on the impact of the COVID-19 pandemic from 2020 and on the basis of its effects, the Joint Undertaking's Human Resources continued in 2021 to focus very actively on psychosocial preventive actions in the area of emotional well-being and stress management;
38. Notes that, during 2021, 14 vacancy notices were published externally for six temporary agents and eight contract agents and that, overall, 14 selection procedures were completed, of which three were published in 2020 and the remaining 11 published in 2021;

Management and control systems

39. Observes that, during 2020 and 2021, the Joint Undertaking was subject to the regular annual assessments by external experts and intensive internal audits covering most of its critical areas of its activities and that the implementation of the remedial actions in response to audits and assessments, in order to address the identified risks; regrets, however, that this resulted in an increase of the administrative burden, while it was not evident that the added controls were efficient and improved the system;
 40. Notes that, in 2021, the Joint Undertaking further aligned its management and internal control standards (MICS), indicators and procedures with the Commission's internal control framework;
 41. Notes that the Joint Undertaking followed a step-by-step approach on the identification of strengths and weakness of the internal control system based on any deficiencies identified in the functioning of the MICS and formulated corresponding corrective actions, leading to the conclusions for the establishment of the director's declaration of assurance and reporting in the consolidated annual activity report (CAAR);
 42. Notes that, in the 2021 CAAR, the Joint Undertaking concluded that all the components are operating together in an integrated manner; notes, however, that due to the fact that one component, namely 'Control activities – Issue on wellbeing of staff', was found to have a critical deficiency, the Joint Undertaking's management concluded that the overall internal control system was partially effective.
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