RESOLUTION (EU) 2021/1681 OF THE EUROPEAN PARLIAMENT

of 29 April 2021

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget for the ECSEL Joint Undertaking for the financial year 2019

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the budget of the ECSEL Joint Undertaking for the financial year 2019,

— 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 (A9-0108/2021),

A. whereas the ECSEL Joint Undertaking on Electronic Components and Systems for European Leadership (the 'Joint Undertaking') was established on 6 May 2014 within the meaning of Article 187 of the Treaty on the Functioning of the European Union for the implementation of the Joint Technology Initiative on 'Electronic Components and Systems for European Leadership' (ECSEL), for a period until 31 December 2024;

B. whereas the Joint Undertaking was established by Regulation (EU) No 561/2014 ([1]) in May 2014, which entered into force on 27 June 2014, to replace and succeed the ARTEMIS and the ENIAC Joint Undertakings;

C. whereas the members of the Joint Undertaking are the Union, the Member States and, on a voluntary basis, the Associated Countries (Participating States), and private member associations (Private Members) that represent their constituent companies and other organisations active in the field of electronic components and systems in the Union;

D. whereas the contributions to the Joint Undertaking for the entire period of Horizon 2020 amount to up to EUR 1 184 874 000 from Union funds (including EFTA appropriations) towards administrative and operational costs, at least EUR 1 170 000 000 from the Participating States to the operational costs and commensurate with the Union's financial contribution, and at least EUR 1 657 500 000 from the Private Members;

Budgetary and financial management

1. Notes that the report of the Court of Auditors (the 'Court') on the Joint Undertaking's annual accounts for the financial year 2019 (the 'Court's report') finds the Joint Undertaking's annual accounts to present fairly, in all material respects, its financial position on 31 December 2019 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its financial regulation and the accounting rules adopted by the Commission's accounting officer; notes that the underlying transactions to the accounts are legal and regular in all material respects;

2. Notes that the Joint Undertaking's total available budget (which includes re-entered unused appropriations of previous years, assigned revenues and reallocations to the next year) for the financial year 2019 included commitment appropriations of EUR 203 966 000 and payment appropriation of EUR 232 545 000; notes that the utilisation rates for commitment and payment appropriations were 100 and 80 % respectively;

3. Notes from the Court's report that at the end of 2019 the Union contributed EUR 637 600 000 from the Seventh Framework programme fund for the co-financing of Seventh Framework programme activities, and a further EUR 17 931 000 for the co-financing of related administrative costs, and that the cumulated commitment for those activities taken over by the Joint Undertaking in June 2014 amounted to EUR 447 342 072 (ARTEMIS EUR 101 425 148 and ENIAC EUR 345 916 924); notes from the Court's report that at the end of 2019 the Joint Undertaking had de-committed approximately EUR 21 800 000 (approximately, ARTEMIS EUR 10 700 000 and ENIAC EUR 11 100 000) and paid EUR 372 480 443 (ARTEMIS EUR 78 362 170 and ENIAC EUR 294 118 273);

4. Notes from the Court's report that the implementation rate for the Joint Undertaking's 2019 available payment appropriations of EUR 44 805 000 for the co-financing of Seventh Framework programme projects was 45,3 % and that this low rate was mainly due to the delay of national funding authorities (the 'NFAs') in providing end of project certificates for ongoing Seventh Framework programme activities; notes, moreover, that as the programme

([1]) OJ L 169, 7.6.2014, p. 152.

was closed at the end of 2017, those delays increase the risk that the Seventh Framework programme funds already allocated to the Joint Undertaking may not be fully used; calls on the Joint Undertaking to report to the discharge authority in that regard;

5. Notes that the 30 Participating States are required to contribute at least EUR 1 170 000 000 to Horizon 2020 operational activities of the Joint Undertaking over the period envisaged in Regulation (EU) No 561/2014, and that at the end of 2019, the Participating States taking part in the 2014 to 2018 calls for proposals, made commitments amounting to approximately EUR 763 530 000 and payments of approximately EUR 341 600 000 (29,2 % of the total required contributions); notes from the Court's report that the low level of Participating States' contributions arises from some Participating States not recognising and reporting their costs to the Joint Undertaking until after the completion of the Horizon 2020 projects that they support;

6. Notes that out of the EUR 1 657 500 000 of contributions to be made at least by private (industry) members to the activities of the Joint Undertaking over the period envisaged for the programme in the regulation, at the end of 2019, the Joint Undertaking estimated (reported but not validated) that the members had made in-kind contributions of EUR 705 410 000, compared to the Union's cash contribution at the end of 2019 of EUR 681 483 000 (up to EUR 1 184 874 000 as per Regulation (EU) No 561/2014) and industry's in-kind validated contribution of EUR 102 559 000; notes furthermore that industry members' cash contributions amounted to EUR 14 922 000; notes from the Court's report that the Joint Undertaking can calculate the actual amount of the industry members' in-kind contributions only after it has validated the contributions of the Participating States at the end of the programme and that that explains the high amount of reported but not yet validated industry in-kind contributions; calls on the Participating States to honour their obligations under Article 4 of Regulation (EU) No 561/2014 with regard to their contributions and reporting of it;

7. Notes that there are different procedures across the joint undertakings receiving financial contributions from private members; calls for harmonisation of the in-kind contributions calculation across the joint undertakings; suggests that the common procedure should provide for transparent and effective methods of evaluation having as result the real value for the contribution; calls on the Court to provide the scrutiny of the audits performed by the independent external auditors; calls also for an appropriate legal framework that ensures that the required financial contribution amount will be achieved by the end of the programme; notes that that legal framework could include requirements for the private contribution to be paid before or at the same time as the corresponding Union contribution;

8. Notes from the Court's report that the implementation rates of the 2019 available budget for Horizon 2020 projects were 100 % for commitment and 89 % for payment appropriations, and that the pre-financing payments for Horizon 2020 projects selected under the 2018 and 2019 calls for proposals comprised 67 % of the value of the operational payments made during the year; notes, furthermore, from the Court's report that the Joint Undertaking reallocated EUR 19 000 000 of unused previous years' payment appropriations to the 2019 operational budget, increasing the initial budget for Horizon 2020 grant payments from EUR 163 080 000 to EUR 182 147 000 and that the Joint Undertaking justified the reallocation by the expected increase of cost claims in 2019, related to 2014 and 2015 Horizon 2020 calls, and that at the end of 2019, 59 % of the reallocated budget was implemented;

Performance

9. Notes that the Joint Undertaking uses key performance indicators (KPIs) to measure operational and programme performance, and specific common KPIs under Horizon 2020, while also monitoring cross-cutting issues through indicators;

10. Requests that the Joint Undertaking reviews its communication strategy to ensure that relevant stakeholders are aware of its mission, activities and achievements;

11. Calls on the Commission and the Court for an in-depth performance tracking method in view of evaluating the added value of the Joint Undertaking and including the social and employment impact as well as impact on the market; considers that the results of that evaluation should be used for the future or for redistribution of Union financing;

12. Notes the total achieved leverage in 2019 for the Joint Undertaking programme (namely, the Horizon 2020 cost minus Union funding divided by the Union funding) equals 3; moreover, notes that EUR 1 of Horizon 2020 funding also leverages EUR 0,93 of national or the Union structural and investment funds;

13. Notes that the Joint Undertaking launched three calls for proposals in 2019 (research and innovation action, innovation action, and coordination and support action), resulting in the selection of 15 collaborative projects out of 40: eight research and innovation actions and six innovation actions, as well as one coordination and support action; moreover, notes that grant agreements for the 13 proposals selected from the 2018 calls were signed and all projects have started their activities in 2019; notes, in addition, the three lighthouse initiatives - Mobility.E, Industry4.E and Health.E - which enable the Joint Undertaking's community to continue to reach out to other communities (for example, in providing help in the advancement of the joint activity with the IMI JU regarding the Trials@Home project, with a special call in the 2020 work plan for this being approved); notes the achievement of all 2019 Joint Undertaking's operational objectives;

14. Notes that, according to the Court's report, at the end of 2019, the Horizon 2020 programme implementation rate stood at 71 % with regard to the call procedures for the activities assigned to the Joint Undertaking;

15. Notes the independent impact study 'Study on the impact of ECSEL funded actions', published in July 2020, which concluded that the Joint Undertaking has already led to significant achievements at both the economic and societal levels, by providing a positive framework for trust building and risk taking and by clearly contributing to establishing the right condition or environment for innovation to occur at both project and programme level; notes, in addition, that the study concluded that the Joint Undertaking is able to foster research and development of solutions directly benefitting Union citizens and addressing societal challenges;

16. Notes that the issue of intellectual property rights (IPRs) needs to be addressed in all contracts which may produce an intended outcome or result of the performance; recalls that IPRs aim to safeguard the rights of individual creators but also provides details on how the rights will be used in the future; notes that since the activity is also financed by public funding, the results should be transparent, accessible to the public and subject to special requirements, such as interoperability if necessary; calls on the Commission to propose a legal framework regarding the IPRs and their implementation on the market, including special requirements and profit distribution;

17. Notes the information contained in the 2019 annual activity report of the Joint Undertaking regarding gender balance in electronic components and systems for European leadership projects, indicating that the total number of women engaged in those projects running in 2019 and projects reported that year (running from 2014, 2015 and 2016, 2017 and 2018) amounted to 20 % of which 13 % related to research activities and 7 % to non-research activities;

18. Calls on the Commission to ensure that the Joint Undertaking's activity programmes will in future respect the requirements and the targets provided by Union law as far as digitalisation is concerned and will follow the strategies in the domain elaborated by both the Commission and industry;

Internal controls

19. Notes from the Court's report that the Joint Undertaking has set up reliable *ex ante* control procedures based on financial and operational desk reviews, and that at the end of 2019, the Joint Undertaking had not yet started the implementation process of the Commission's new internal control framework (ICF), based on 17 internal control principles, that it is obliged to implement; notes from the Joint Undertaking's reply that it started to transition into the new ICF during 2020 with an action plan, and that it is defining the internal control monitoring criteria prior to validation by management, and, furthermore, that prior to completing its transition to the new ICF, it continues to apply and monitor its comprehensive set of existing internal control standards; calls on the Joint Undertaking to report to the discharge authority an update on that regard;

20. Notes from the Court's report that the Joint Undertaking has taken steps to assess the implementation of *ex post* audits by the NFAs and has obtained written statements from the NFAs declaring that the implementation of their national procedures provides reasonable assurance as to the legality and regularity of transactions but that the significant variation in the methodologies and procedures used by the NFAs does not allow the Joint Undertaking to calculate a single reliable weighted error rate or a residual error rate for Seventh Framework Programme payments; notes from the Court's report, moreover, that for Seventh Framework Programme projects, the payments made by the Joint Undertaking in 2019 amounted to EUR 20 305 796 (compared to EUR 41 247 048 in 2018), which

represented 11,2 % (compared to 22 % in 2018) of the total operational payments made by the Joint Undertaking in 2019, and that for those payments, the Court applied the residual error rate established by the Commission's Directorate-General for Research and Innovation for the whole Seventh Framework Programme, which was 3,52 % at the end of 2019;

21. Notes from the Court's report that for Horizon 2020 payments the Commission's common audit service is responsible for the *ex-post* audits and that, based on the *ex-post* audit results available at the end of 2019, the Joint Undertaking reported a representative error rate of 3 % and a residual error rate of 1,48 % for Horizon 2020 projects (clearings and final payments); moreover, notes from the Commission's proposal for a Horizon 2020 Regulation, that for research spending under Horizon 2020, a risk of error, on an annual basis, within a range of between 2 to 5 % is a realistic objective (taking into account the costs of controls, the simplification measures proposed to reduce the complexity of rules and the related inherent risk associated to the reimbursement of costs of the research project), and that the ultimate aim for the residual level of error at the closure of the programmes (after the financial impact of all audits, correction and recovery measures have been taken into account) is to achieve a level as close as possible to 2 %;

22. Notes that the Court audited, as part of the operational payment controls, randomly sampled Horizon 2020 payments made in 2019 at the level of the final beneficiaries to corroborate the *ex post* audit error rates; notes that the Court's detailed audits revealed systemic errors related to the declared personnel costs, with the main sources of errors being the wrong hourly rate calculation for the company owner and the use of annual hourly rates not based on a completed financial year; calls on the Joint Undertaking to improve its personnel costs declaration system and to report to the discharge authority of developments in that regard;

23. Notes that the Joint Undertaking adopted an action plan in April 2018 and that some activities are already completed, with the majority of the activities to be implemented in 2019, while some were considered beyond the scope of the Joint Undertaking;

24. Notes from the Court's report that in 2019, the Joint Undertaking agreed on a payment schedule to regularise the situation of the cash contributions for administrative costs amounting to over EUR 1 000 000 not being invoiced to the industry member AENEAS, which was raised in the Court's audit regarding discharge 2018, and that it issued a first recovery order to AENEAS amounting to EUR 549 500, and that in line with the payment schedule, the remaining amount of EUR 550 023 was to be collected in 2020;

Internal audit

25. Notes that the internal audit service (IAS) performed a follow-up of audit recommendations in the last quarter of 2019 with the aim of assessing the progress made in implementing the open recommendations resulted from past IAS audits, and that it concluded that all recommendations raised during the audit on the now common implementation centre had been effectively implemented; notes that regarding the audit on the performance management of the Joint Undertaking's activities, one recommendation (on performance indicators and monitoring tools) was effectively implemented, while the other (on performance framework) remains open as has been partially implemented; notes that in July 2019 the IAS released a strategic internal audit plan for 2019 to 2021 which is based on the results of an in-depth risk assessment carried out by the IAS in November 2018; notes, moreover, that following that internal audit plan, the audit of the Joint Undertaking's Horizon 2020 grant agreement implementation and closing, assessing the adequacy of the design and the efficiency and effectiveness of the internal controls in place, was launched during 2019 and is ongoing;

26. Notes from the Court's report that the Joint Undertaking has to improve the internal communication process to identify beneficiaries threatened with bankruptcy and to report, in a timely manner, on pre-financing at risk of non-recovery, and that consequently, pre-financing assets disclosed in the annual accounts might be overstated; calls on the Joint Undertaking to report to the discharge authority of developments in that regard;

Human resources management

27. Notes that on 31 December 2019, the Joint Undertaking employed 30 members of staff out of 31 as one second national expert position was authorised but not yet filled; notes that the Joint Undertaking's substantial work devoted to preparing the update of implementing rules of the staff regulations.