RESOLUTION (EU) 2021/1675 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 Fuel Cells and Hydrogen 2 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 Fuel Cells and Hydrogen 2 Joint Undertaking (the '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 (A9-0107/2021),

A. whereas the Fuel Cells and Hydrogen Joint Undertaking (FCH) was set up in May 2008 as a public-private partnership by Council Regulation (EC) No 521/2008 ([1]) for a period until 31 December 2017 to increase research efforts and accelerate the deployment of fuel cells and hydrogen technologies; whereas Regulation (EC) No 521/2008 was repealed by Council Regulation (EU) No 559/2014 ([2]);

B. whereas Regulation (EU) No 559/2014 established the Joint Undertaking in May 2014 to replace and succeed FCH for a period until 31 December 2024;

C. whereas the members of FCH were the Union, represented by the Commission, the Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping, and the Research Grouping N.ERGHY;

D. whereas the members of the Joint Undertaking are the Union, represented by the Commission, the New Energy World Industry Grouping AISBL (Industry Grouping), renamed Hydrogen Europe in 2016, and the New European Research Grouping on Fuel Cells and Hydrogen AISBL (Research Grouping), renamed Hydrogen Europe Research in 2018;

E. whereas the maximum Union contribution towards the Joint Undertaking's first phase of activities is EUR 470 000 000 from the Seventh Framework Programme; whereas the contributions from the other members must be at least equal to the Union contribution;

F. whereas in the Joint Undertaking, the maximum Union contribution is EUR 665 000 000 (including EFTA appropriations) from the Horizon 2020 and the members of the Industry and Research Groupings are expected to contribute total resources of at least EUR 380 000 000 over the period defined by Regulation (EU) No 559/2014, comprising in-kind contributions in the Horizon 2020 projects funded by the Joint Undertaking, in-kind contributions to additional activities of at least EUR 285 000 000, and in cash-contributions to administrative costs;

Budget and financial management

1. Notes that the report of the Court of Auditors (the 'Court') on the annual accounts of the Joint Undertaking (the 'Court's report') finds the 2019 annual accounts to present fairly, in all material respects, the financial position of the Joint Undertaking at 31 December 2019, 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 with accounting rules adopted by the Commission's accounting officer; notes, furthermore, from the Court's report that the underlying transactions to the accounts are legal and regular in all material respects;

2. Notes that the Joint Undertaking's available final 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 91 730 585 and payment appropriations of EUR 113 855 981; notes that the overall 2019 budget execution of commitment and payment appropriations reached 85,9 % and 98,4 % respectively;

([1]) Council Regulation (EC) No 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking (OJ L 153, 12.6.2008, p. 1).

([2]) Council Regulation (EU) No 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking (OJ L 169, 7.6.2014, p. 108).

3. Notes that at the end of 2019, out of the maximum contribution of EUR 470 000 000 as per Regulation (EC) No 521/2008, the Union contributed a total of EUR 421 606 000 from the Seventh Framework Programme including EUR 19 107 000 in-kind contributions and the members from the Industry and Research Groupings are contributing a total of validated resources of EUR 447 506 000, comprising EUR 429 600 000 in-kind validated contributions in the Seventh Framework Programme projects; notes that the Joint Undertaking made payments of EUR 5 805 092 for the Seventh Framework Programme in 2019, totalling EUR 415 313 265 for the entire period 2009-2019, and that the implementation rate for payment appropriations was 95,1 % for the budget available for Seventh Framework Programme projects in 2019;

4. Notes that at the end of 2019, the Union contributed a total of EUR 420 067 000 from Horizon 2020 and the members from the Industry and Research Groupings are contributing a total of validated resources of EUR 11 707 000 comprising EUR 5 376 000 in-kind validated contributions in the Joint Undertaking's Horizon 2020 projects, and further a total of EUR 667 001 000 in-kind contributions to additional activities;

5. Notes from the Court's report that the low level of industry members' in-kind contributions for operational activities is due to the fact that the Joint Undertaking certifies them at the time of the final cost claims, and therefore, the certification of most of the committed in-kind contributions will take place later in the Horizon 2020 programme, when the final payment for the projects is made and the certificates of financial statement are due;

6. Notes that there are different procedures across the joint undertakings receiving financial contribution from joint undertakings' private members; calls for harmonisation of the in-kind contribution calculation across the joint undertakings; considers 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; also calls 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;

7. Notes that the implementation rate of the budget available for Horizon 2020 projects was 86,3 % for commitments and 100 % for payments appropriations; notes, furthermore, that the commitment appropriations were not fully used, as two topics of the 2019 call were not awarded;

Performance

8. Notes that the Joint Undertaking uses the specific key performance indicators (KPIs) pursuant to Horizon 2020 as well as two specific Joint Undertaking KPIs measuring the share of funds allocated to research activities, and having demonstrator projects hosted in Member States and regions benefiting from the Union structural and investment funds; notes, furthermore, that KPIs (established in 2014) were revised and included in an addendum to the multiannual work plan, endorsed by the governing board in June 2018, as the technology progressed substantially in recent years and new applications have begun to emerge;

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

10. Notes that the value of leverage effect at 31 December 2019 was 2,24 taking into consideration all private partners contributions, and 1,51 taking into account only members of Hydrogen Europe Industry and Hydrogen Europe Research;

11. Notes that in 2019 the Joint Undertaking completed CertifHy 2 project which serves as a catalyst for implementing an Union-wide GO scheme for green and low-carbon hydrogen and is a milestone towards a possible hydrogen certification mechanism in the context of Directive (EU) 2018/2001 ([3]); notes that in 2019 the review and assessment of the events contained in the European Hydrogen Safety Reference Database (HIAD.2.0) which contains recommendations for future research in this field; notes the developments following the conclusions of the report 'Fuel Cells and Hydrogen for Green Energy in European Cities and Regions', such as the launch of the European hydrogen valleys partnership (EH-S3P) under the smart Specialisation platform, the signature of a contract for managing a pilot project development assistance facility, and the inclusion in the 2019 work plan of an H2 Valley topic for a large demonstration (flagship) project;

([3]) Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

12. Notes that in 2019 grant agreements for two major demonstration projects (H2Haul and Djewels) from 2018 call were signed; notes, moreover, that for the 2019 call, the Joint Undertaking received a total of 43 eligible proposals for its 17 topics and that beneficiaries were from 23 Member States or associated countries and that entities from four third countries are participating in seven projects; notes, furthermore, that all 17 grant agreements were signed in 2019;

13. Notes that at the end of 2019, the Joint Undertaking's global project portfolio comprised of 155 projects under Seventh Framework Programme (of which 150 were closed and 5 remain open) and 109 signed projects under Horizon 2020 (of which 11 were closed and 98 remain open); notes, moreover, that in 2019 the Joint Undertaking performed calls for tenders for two studies, with one contract signed in July 2019, and additionally two calls for tenders for support to mission innovation and for project development assistance for regions, both signed in the year;

14. Notes that, according to the Court's report, at the end of 2019, the implementation rate of Horizon 2020 stood at 83 % with regard to the call procedures for the activities assigned to the Joint Undertaking;

15. Notes that at the end of 2019 the Joint Undertaking had 27 members of staff from 10 Member States and is pleased to note that there is almost gender balance among staff (51 % men and 49 % women); notes also that in 2019 the share of women participating in Horizon 2020 projects stood at 27 %, that 23,8 % of project coordinators were women, and that 33 % of the members of the scientific committee were women;

16. Calls on the Commission and the Court for a in-depth performance-tracking method with a view to evaluate the added value of the Joint Undertaking and including the social and employment impact as well as impact on the market; opines that the results of the evaluation should be used for the future or for a redistribution of Union financing;

17. Calls on the Commission to ensure that the Joint Undertaking activity programme will in the future respect the requirements and the targets provided by the Union law as far as it concerns the mitigation of the climate change and that it will follow the strategies in the domain elaborated by both the Commission and industry;

18. The issue of intellectual property rights (IPR) 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 right will be used in the future; notes that since the activity is financed also by public funding, the results should be transparent, accessible to the public and subject to special requirements; calls on the Commission to propose a legal framework regarding the IPRs and their implementation on the market, including special requirements and profit distribution;

Internal Audit

19. Notes that in 2019, the Joint Undertaking provided answers to the draft and final report on a new strategic internal audit plan for 2019-2021 prepared by the internal audit service (IAS) team, and that in agreement with the IAS, a new IAS audit as per strategic internal audit plan for 2019 to 2021 would launch in 2020; notes, moreover, that during the year 2019, the Joint Undertaking was consulted and provided input to the IAS in the context of a consulting engagement in the existing process of research and innovation policy feedback carried out by the IAS at the request of the common implementation centre;

20. Notes that at 31 December 2019, all recommendations and action plans coming from the previous IAS audits were successfully implemented and closed;

Internal controls

21. Notes from the Court's report that the Joint Undertaking has set up *ex ante* control procedures based on financial and operational desk reviews, and that it is obliged to implement the Commission's new internal control framework based on 17 internal control principles; notes, furthermore, from the Court's report that at the end of 2019, the Joint Undertaking had already completed a gap analysis based on the existing internal control system and developed indicators for the assessment of the effectiveness of the new internal control principles and related characteristics; notes that following the 2018 self-assessment of the internal control framework resulted in an action plan, an internal assessment was carried out in 2019 to ensure that the action plan was followed;

22. Notes from the Court's report that for Seventh Framework Programme interim and final payments, the Joint Undertaking is responsible for *ex post* audits at the beneficiaries, whilst for Horizon 2020 project cost claims, is the Commission's common audit service 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 2,08 % and a residual error rate of 1,08 % for its Seventh Framework Programme projects, and a representative error rate of 0,94 % and a residual error rate of 0,7 % for Horizon 2020 projects (clearings and final payments); notes that the Commission's proposal for the Horizon 2020 regulation proposed that for research spending under Horizon 2020 an annual risk of error of a range 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 will have been taken into account, is to achieve a level as close as possible to 2 %;

23. Notes that the Court audited randomly sampled Horizon 2020 payments made in 2019 at the level of the final beneficiaries to corroborate the *ex post* audit error rates, as part of the operational payment controls, and that these detailed audits showed no significant errors or control weaknesses at the sampled the Joint Undertaking's beneficiaries;

24. Notes that the Joint Undertaking's code of good administrative behaviour was adopted by its executive director in September 2019; notes that the Joint Undertaking adopted new financial rules following the model financial regulation for public-private partnerships, by a decision of the governing board of December 2019; notes, moreover, that the Joint Undertaking launched a procedure for the adoption of a document management policy at the end of 2019 and that final adoption was scheduled to take place in early 2020;

25. Notes that the Joint Undertaking had a complete risk matrix for 2020 (including lower-priority risks) regularly assessed and discussed by management, as part of an ongoing risk assessment process, to reflect on any changes in the organisation's internal and external environment, and also considered the status of the significant risks and action plans that were identified in 2018; notes that the Joint Undertaking implements the common research anti-fraud strategy.