

Brussels, 13 February 2023
(OR. en)

6252/23
ADD 1

FIN 163
PE-L 10

'I/A' ITEM NOTE

From: Budget Committee

To: Permanent Representatives Committee/Council

Subject: Council recommendations on the discharge to be given to the joint undertakings in respect of the implementation of the budget for the financial year 2021

- *Adoption*
- *Approval of a letter*

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COUNCIL RECOMMENDATION
of
on the discharge to be given to the Director
of the European Joint Undertaking for ITER and the Development of Fusion Energy
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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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 it¹, and in particular Article 5(3) thereof and the fourth subparagraph of Article 15(1) of the Annex thereto,

Having regard to the Financial Regulation of the European Joint Undertaking for ITER and the Development of Fusion Energy adopted by its Governing Board on 10 December 2019,

¹ OJ L 90, 30.3.2007, p. 58.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the European Joint Undertaking for ITER and the Development of Fusion Energy, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council

The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO THE
EUROPEAN JOINT UNDERTAKING FOR ITER AND THE DEVELOPMENT OF
FUSION ENERGY (F4E JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council notes the Court's observation that the Joint Undertaking's annual accounts for the financial year 2021 disclose its estimate of the total cost for completing its delivery obligations for the ITER project, but that there is a risk that changes in key assumptions for the estimate and risk exposure could lead to significant cost increases and/or to further delays in the implementation.

The Council also notes the Court's observation that Russia, as a member of the ITER International Fusion Energy Organisation (ITER-IO), has the obligations to deliver to the ITER several components for the project, and to provide annual contributions to the ITER-IO. This presents a risk of further delays and increased costs for the ITER project.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Joint Undertaking's Statutes and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Single European Sky Air Traffic Management Research (SESAR 3) Joint Undertaking¹
in respect of the implementation of the budget
of the SESAR 3 Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR)², and in particular Article 4b thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the SESAR 3 Joint Undertaking adopted by its Governing Board on 14 December 2021,

¹ Replacing the Single European Sky Air Traffic Management Research (SESAR) Joint Undertaking.

² OJ L 64, 2.3.2007, p. 1.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the SESAR 3 Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO THE
SINGLE EUROPEAN SKY AIR TRAFFIC MANAGEMENT RESEARCH JOINT
UNDERTAKING (SESAR 3 JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

Concerning the operational payment controls, the Council notes the Court's observation that, in the context of its detailed audits of Horizon 2020 payments made in 2021, in one case, the beneficiary declared direct personnel costs that were not, in fact, eligible as such. The Council acknowledges the Joint Undertaking's response and encourages it to put the mitigating measures in place in order to avoid a similar risk in the future.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Clean Aviation (CA) Joint Undertaking¹
in respect of the implementation of the budget
of the CA Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 558/2014 of 6 May 2014 establishing the Clean Sky 2 Joint Undertaking², and in particular Article 12 thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the Clean Sky 2 Joint Undertaking adopted by its Governing Board on 27 January 2020,

¹ Replacing the Clean Sky 2 Joint Undertaking.

² OJ L 169, 7.6.2014, p. 77.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the CA Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE CLEAN AVIATION JOINT UNDERTAKING (CA JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

Concerning operational payment controls, the Council takes note of the Court's observation that, in the context of its detailed audits of Horizon 2020 payments made in 2021, in one case, a systemic error related to the incorrect calculation of hourly rates for personnel costs was discovered. The Council encourages the Joint Undertaking to implement measures to mitigate a similar risk in the future. Furthermore, the Council recognises the legal risks identified by the Court in the copying and pasting of the responsible authorising officer's signature into the document and welcomes the Joint Undertaking's implementation of EU-sign certified electronic signature.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Innovative Health Initiative (IHI) Joint Undertaking¹
in respect of the implementation of the budget
of the IHI Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 557/2014 of 6 May 2014 establishing the Innovative Medicines Initiative 2 Joint Undertaking², and in particular Article 12 thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the Innovative Medicines Initiative 2 Joint Undertaking adopted by its Governing Board on 27 May 2020,

¹ Replacing the Innovative Medicines Initiative 2 Joint Undertaking.

² OJ L 169, 7.6.2014, p. 54.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the IHI Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

**COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE INNOVATIVE HEALTH INITIATIVE JOINT UNDERTAKING (IHI JU)**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

The Council regrets the Court's observation in the context of its detailed audits of Horizon 2020 payments made in 2021, on a detected systemic error in one case related to calculating personnel costs using an incorrect hourly rate, and in another case shortcomings in the supporting evidence for declared equipment and travel costs. The Council calls for the Joint Undertaking to improve its grant management and control system to mitigate the risk of such errors.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Clean Hydrogen (Clean H2) Joint Undertaking¹
in respect of the implementation of the budget
of the Clean H2 Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking², and in particular Article 12 thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the Clean H2 Joint Undertaking adopted by its Governing Board on 18 December 2019,

¹ Replacing the Fuel Cells and Hydrogen 2 Joint Undertaking.

² OJ L 169, 7.6.2014, p. 108.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the Clean H2 Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE CLEAN HYDROGEN JOINT UNDERTAKING (CLEAN H2 JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

The Council regrets that the Court in the context of its detailed audits of Horizon 2020 payments made in 2021, detected in one case, errors related to personnel costs, and in another case, a systemic control weakness related to the validation procedure for the worked hours on a project. The Council invites the Joint Undertaking to improve its grant management and control systems to mitigate the risk of such errors.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Key Digital Technologies (KDT) Joint Undertaking¹
in respect of the implementation of the budget
of the KDT Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking², and in particular Article 12 thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the ECSEL Joint Undertaking adopted by its Governing Board on 26 February 2020,

¹ Replacing the Electronic Components and Systems for European Leadership (ECSEL) Joint Undertaking.

² OJ L 169, 7.6.2014, p.152.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the KDT Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for a certain comment by the Council, which is annexed to this recommendation; whereas the Council stresses the importance it attaches to this comment being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENT ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE KEY DIGITAL TECHNOLOGIES JOINT UNDERTAKING (KDT JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, one observation needs to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Circular Bio-based Europe (CBE) Joint Undertaking¹
in respect of the implementation of the budget
of the CBE Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 560/2014 of 6 May 2014 establishing the Bio-based Industries Joint Undertaking², and in particular Article 12 thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the Bio-based Industries Joint Undertaking adopted by its Governing Board on 1 January 2020,

¹ Replacing the Bio-based Industries Joint Undertaking.

² OJ L 169, 7.6.2014, p. 130.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the CBE Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE CIRCULAR BIO-BASED EUROPE JOINT UNDERTAKING (CBE JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

The Council regrets that the Court, in the context of its detailed audits of Horizon 2020 payments made in 2021, detected in one case that direct personnel costs were declared for a non-eligible person. The Council invites the Joint Undertaking to improve its grant management and control systems to mitigate the risk of such errors.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the Europe's Rail (EU-Rail) Joint Undertaking¹
in respect of the implementation of the budget
of the EU-Rail Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 642/2014 of 16 June 2014 establishing the Shift2Rail Joint Undertaking ², and in particular Article 12 thereof,

Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014³, and in particular Article 26(5) thereof,

Having regard to the Financial Rules of the EU-Rail Joint Undertaking adopted by its Governing Board on 21 December 2021,

¹ Replacing the Shift2Rail Joint Undertaking.

² OJ L 177, 17.6.2014, p. 9.

³ OJ L 256, 30.11.2021, p. 17.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the EU-Rail Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for a certain comment by the Council, which is annexed to this recommendation; whereas the Council stresses the importance it attaches to this comment being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

**COMMENT ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE EUROPE'S RAIL JOINT UNDERTAKING (EU-Rail JU)**

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, one observation needs to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Single Basic Act and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

COUNCIL RECOMMENDATION
of
on the discharge to be given to the Executive Director
of the European High Performance Computing (EuroHPC) Joint Undertaking
in respect of the implementation of the budget
of the EuroHPC Joint Undertaking
for the financial year 2021

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) 2021/1173 of 13 July 2021 on establishing the European High Performance Computing Joint Undertaking and repealing Regulation (EU) 2018/1488¹, and in particular Article(4) thereof,

Having regard to the Financial Rules of the EuroHPC Joint Undertaking adopted by its Governing Board on 20 February 2020,

¹ OJ L 256, 19.7.2021, p. 3.

Having examined the revenue and expenditure accounts for the financial year 2021 and the balance sheet as at 31 December 2021 of the EuroHPC Joint Undertaking, hereinafter referred to as the "Joint Undertaking", as well as the Court of Auditors' report on the annual accounts of the Joint Undertaking for the financial year 2021, accompanied by the Joint Undertaking's replies to the Court's observations¹,

Whereas the observations in the Court of Auditors' report in relation to the financial year 2021 call for certain comments by the Council, which are annexed to this recommendation; whereas the Council stresses the importance it attaches to these comments being followed up,

Whereas, following the above examination, the implementation of the budget of the Joint Undertaking is such as to allow a discharge to be given in respect of that implementation,

HEREBY RECOMMENDS to the European Parliament to give a discharge to the Executive Director of the Joint Undertaking in respect of the implementation of the budget for the financial year 2021.

Done at Brussels,

For the Council
The President

¹ OJ C 458, 12.11.2021, p. 20.

COMMENTS ACCOMPANYING
THE COUNCIL RECOMMENDATION ON THE DISCHARGE TO BE GIVEN TO
THE EUROPEAN HIGH PERFORMANCE COMPUTING JOINT UNDERTAKING
(EuroHPC JU)

The Council welcomes the Court's opinion that, in all material respects, the Joint Undertaking's annual accounts present fairly its financial position as at 31 December 2021 and the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with the provisions of the Joint Undertaking's Financial Rules, and that the underlying transactions for 2021 are legal and regular in all material respects. Nevertheless, some observations need to be made.

The Council regrets the Court's finding that the Joint Undertaking's employer contribution share to the EU pension scheme was neither provided in the Joint Undertaking's budget nor invoiced by the Commission, and that the different provisions of the Joint Undertaking's Statutes and the Staff Regulations lead to differing interpretations with varying financial impact. The Council therefore welcomes the fact that the Joint Undertaking intends to resolve the matter in cooperation with the Commission's services and calls on the Commission to further streamline guidelines in line with regulations in force.

The Council takes note of the Court's observations on the operational obligations of the Joint Undertaking's members, particularly the high risk of not achieving by the end of the implementation of its Horizon 2020 projects, the private members' contribution target, notably the growing risk under the new founding regulation, which allocates significantly more funds to the Joint Undertaking under the current MFF.

The Council is concerned by the very low implementation rate, 2 % for commitments and 47 % for the payments, while acknowledging the delayed start under the current MFF, the transfers of funds by the Commission and participating states made in December 2021 for the current MFF, and delays by Hosting Entities and supply issues for key components, caused by the global pandemic situation.
