

RESOLUTION (EU) 2021/1669 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 Bio-based Industries 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 Bio-based Industries 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 (A9-0105/2021),
- A. whereas the Bio-based Industries Joint Undertaking (the 'Joint Undertaking') was established as a public-private partnership by the Regulation (EU) No 560/2014 ⁽¹⁾ for a period of 10 years with the aim of bringing together all relevant stakeholders and contributing to establishing the Union as a key player in research, demonstration and deployment of advanced bio-based products and biofuels;
- B. whereas pursuant to Articles 38 and 43 of the Joint Undertaking's financial rules, adopted by the decision of its governing board on 14 October 2014, the accounting officer prepared the annual accounts of the Joint Undertaking for the year 2019;
- C. whereas the founding members of the Joint Undertaking are the Union, represented by the Commission, and industrial partners, represented by the Bio-based Industries Consortium (the 'BIC');

General

1. Notes that the maximum Union contribution including EFTA appropriations to the activities of the Joint Undertaking is EUR 975 000 000, to be paid from Horizon 2020; notes that the industry members of the Joint Undertaking are to contribute resources of at least EUR 2 730 000 000 over the period of the Joint Undertaking's lifespan, consisting of at least EUR 182 500 000 of in-kind and cash contributions to the Joint Undertaking's operational activities and at least EUR 1 755 000 000 of in-kind contributions to implement additional activities outside the work plan of the Joint Undertaking and contributing to its objectives;
2. Notes that 23 out of 178 eligible proposals from the 2019 call for proposals were retained and at the grant agreement preparation stage by the end of 2019; notes, moreover, that the Joint Undertaking has a portfolio of 124 ongoing projects with a total of 1 466 participants from 37 countries and a total grant value of EUR 717 000 000;
3. Notes that the Joint Undertaking has provided a structuring effect across strategic priorities of the bio-based sector and across different geographical areas while also ensuring a balanced participation of industry, academia, and small and medium-sized enterprises; notes, moreover, that the mission of the Joint Undertaking is to implement, under Horizon 2020, the strategic innovation and research agenda (SIRA) driven by BIC and endorsed by the Commission; observes that with regard to the operational budget distribution, the allocation for research and innovation actions and flagships is in line with the targets while adjustments are required for demonstration and coordination and support actions;
4. Observes with great concern the existence of problems as regards the governance and transparency of the Joint Undertaking where the participating private companies exercise exclusive control on the priorities of the partnership (where the industry alone draws up the strategic agendas and annual work plans of the bio-based industries) and privatise the results and data of projects funded by public money; is concerned, in that regard, that the industry refuses the disclosure of crucial documents, such as project proposals, grants or project agreements; recalls, in that regard, that those documents concern projects funded by public money; is concerned to notice that the problems referred to are partly a logical consequence of the structure and mechanisms of that public-private partnership;

⁽¹⁾ OJ L 169, 7.6.2014, p. 130.

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

Budget and financial management

6. 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 2019 annual accounts of the Joint Undertaking to be presented fairly, in all material respects, its financial position on 31 December 2019 and the results of its operations and 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, moreover, from the Court's report that the underlying transactions are legal and regular in all material respects;
7. Notes from the Joint Undertaking's annual accounts that the final 2019 available budget included commitment appropriations of EUR 141 629 433 (of which EUR 133 608 895 from the Union budget) and payment appropriations of EUR 182 118 821 (of which EUR 145 833 500 from the Union budget); notes, moreover, that the administrative budget included a relatively large surplus of unused budget from previous years and that the partly reactivated appropriations were consumed in priority, and that further reactivation of appropriations is provided for in the 2020 budget by a governing board decision taken at the end of 2019 and is to be envisaged via a budgetary amendment; notes that at the end of 2019, the administrative budget achieved an implementation rate of 92 % and execution of 78 %; calls on the Joint Undertaking to report to the discharge authority in that regard;
8. Notes from the Court's report that the total amount of in-kind contributions to additional activities of EUR 916 064 000 at the end of 2019 includes approximately EUR 216 000 000 of reported contributions but for which the certification process was not been completed due to the COVID-19 pandemic; stresses that participating companies so far provided only 3,7 % of their in-kind contributions and that those companies have refused to disclose the data enabling a proper evaluation of those in-kind contributions;
9. Notes that there are different procedures across the joint undertakings receiving financial contribution from joint undertakings' private members; calls for a harmonisation of the in-kind contribution calculation across the joint undertakings; 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.
10. Notes from the Court's report that despite the cancellation of EUR 18 000 000 by means of the first amending budget to offset the reactivation of previous years' payment appropriations of EUR 25 486 657, the level of unused payment appropriations increased to EUR 43 950 700 at the end of 2019; calls on the Joint Undertaking to report to the discharge authority on any development in that regard;
11. Notes that the overall utilisation rates for commitment and payment appropriations were 87,40 % and 75,87 % respectively; notes from the Court's report that the low implementation of the available commitment appropriations was due to the 2019 call evaluation resulting in a lower than expected number of proposals eligible for funding under a specific topic; notes, furthermore, that the operational budget of commitment appropriations achieved an implementation rate of 87 %; calls on the Joint Undertaking to review its procedures and requirements for calls for proposals and to identify potential weaknesses, including with regard to the relatively low implementation rate;
12. Notes from the Court's report that the Joint Undertaking had implemented 76 % of the available payment appropriations for Horizon 2020 projects at the end of 2019, and that the pre-financing payments for projects selected under the 2018 call for proposals comprised 62 % of the value of the operational payments made during the year; notes that in 2019 the execution of payment appropriations progressed compared to 2018 despite delays with some periodic reports and the amounts of certain cost claims being below the anticipated level; observes that the need of multi-annual forecasting of the operational payment appropriations, each year, with the final annual call in 2020, brings more challenges and a higher volume of transactions as more projects are running in parallel; calls on the Joint Undertaking to closely monitor the situation in order to avoid backlogs, delayed payments and understaffing that could seriously affect the workload; calls on the Joint Undertaking to provide a strategy to increase the implementation rate of the payment appropriations;

13. Notes that out of the maximum of EUR 975 000 000 of Union cash contribution to be allocated to the Joint Undertaking over its life span, the Union had contributed a total amount of EUR 414 638 000 by the end of 2019, and that the contribution for the year 2019 was EUR 150 032 737;
14. Notes from the Court's report that of the minimum EUR 182 500 000 of cash contributions to be made by the industry members to the Joint Undertaking's operational costs, only EUR 3 250 000 had been paid at the end of 2019; notes, furthermore, that Regulation (EU) No 560/2014 ⁽²⁾ was amended to enable industry members to provide their cash contributions at project level and that, despite that amendment, there is still a high risk that the industry members will not achieve the minimum amount of operational cash contributions at the end of the Joint Undertaking's programme; recalls in that regard that all public-private bio-based industry projects (BBI projects) were intended to be funded by both public money and in-kind and financial support from the industry; deplores the fact that the latest figures available show that participating companies had only paid a very small amount of their expected contributions; notes that, as a result, the Commission's Directorate-General for Research and Innovation decided at the end of 2018 to reduce the Joint Undertaking's 2020 budget of EUR 205 000 000 by EUR 140 000 000; calls on the Joint Undertaking to report to the discharge authority on any development in that regard;

Performance

15. Notes that the Joint Undertaking used key performance indicators (KPIs) pursuant to Horizon 2020 as well as eight specific Joint Undertaking KPIs established in SIRA 2017; notes that the Joint Undertaking's average performance against the three main Horizon 2020 KPIs (time to inform, time to grant, and time to pay) exceeds the targets set in 2019; notes that new bio-based value chains created by the Joint Undertaking's projects significantly exceeded the SIRA targets;
16. Requests that the Joint Undertaking reviews its communication strategy to ensure that relevant stakeholders are aware of its mission, activities and achievements.
17. Notes the value of expected leverage effect of 2,11 at the end of 2019, which is below the overall target value of 2,86 at the end of the programme; notes that the leverage effect value is expected as it is calculated including in-kind to additional activities for which the certification process was not possible due to the COVID-19 pandemic; notes that the reported operational leverage is growing; calls the Joint Undertaking to undertake improved actions to meet the target leverage effect;
18. Notes that the Joint Undertaking's calls are fully open to the participation of any stakeholder and that all proposals elicited submissions; notes that the retained proposals corresponded to 81 % of the overall topic coverage, with four topics not covered; notes with satisfaction that the 2019 call attracted applicants from all Member States; notes the Joint Undertaking's great efforts in communicating its objectives and results, and its calls to the stakeholders; notes that the Joint Undertaking took actions in 2019 with a focus on encouraging a renewed engagement with respect to countries that are underrepresented in the calls; encourages the Joint Undertaking to strengthen its efforts to include Member States that are continuously underrepresented in its calls and financed projects; invites the Joint Undertaking to take actions aiming to increase the topics covered;
19. Acknowledges that in 2019 the Joint Undertaking operations included the conclusion of the grant agreement preparation for the 2018 call, which resulted in the signature of 19 grant agreements;
20. Notes that, according to the Court's report, at the end of 2019, the Horizon 2020 programme implementation rate stood at 63 % with regard to the call procedures for the activities assigned to the Joint Undertaking;
21. Welcomes the Joint Undertakings' annual activity report which includes the socio-economic and environmental impact of the BBI projects; calls on the Joint Undertaking to provide more figures regarding the results of the expected environmental impact of those projects, including a life-cycle assessment;
22. Calls on the Commission and the Court for a in-depth performance-tracking method with a view to evaluating 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.

⁽²⁾ Council Regulation (EU) No 560/2014 of 6 May 2014 establishing the Bio-based Industries Joint Undertaking (OJ L 169, 7.6.2014, p. 130).

23. Notes that intellectual property rights (IPRs) need to be addressed in all contracts which may produce an intended outcome or result of 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 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;

Procurement and recruitment procedures

24. Notes that by the end of 2019, the Joint Undertaking's staff comprised 22 members compared to 23 budgeted; observes that two recruitment procedures were launched in 2019, one for a contract agent and one for a temporary agent, and that in addition, three candidates for two temporary posts and a contract agent were appointed at the end of 2019 and were to take up their duties in the first quarter of 2020;
25. Notes with satisfaction that in 2019 the Joint Undertaking achieved a fair gender balance in its various bodies (scientific committee: 60 % women and 40 % men; States Representatives Group: 48 % women and 52 % men; programme office: 70 % women and 30 % men; evaluation experts (2019 call for proposals): 46 % women and 54 % men; project coordinators: 44 % women and 56 % men), with the exception of the governing board (20 % women and 80 % men); takes note of the Joint Undertaking's observation that it has no influence over the composition of the governing board; notes with satisfaction the gender balance among the staff involved in Joint Undertaking projects (46 % women and 54 % men);
26. Notes that in 2019, the Joint Undertaking continued to use existing Commission framework contracts and service level agreements as well as launched specific tender procedures, and furthermore that for interim staff and common IT services it also signed specific contracts under the framework contracts jointly managed with other joint undertakings in the white atrium; furthermore, notes that at the beginning of 2018, the programme office implemented a streamlined version of the internal procedure for tendering and signing procurement contracts and that it implemented further improvements and simplifications in 2019; notes that an *ex ante* control system is in place to ensure the correctness of all payments and prevent double funding, in line with the Horizon 2020 *ex-ante* control and anti-fraud strategies; calls on the Joint Undertaking to take into consideration potential risks arising from outsourcing its IT services to external providers; calls on the Joint Undertaking to provide the discharge authority with further details regarding the recruitment of interim staff and in particular whether that recruitment was a temporary solution needed to deal with an increased workload;

Internal audit

27. Notes that in 2019, the internal auditing service (IAS) audited the Horizon 2020 grant processes implemented by the Joint Undertaking, and that it concluded that, in general, the Joint Undertaking has set up an effective and efficient internal control system while also providing recommendations; notes that the Joint Undertaking accepted the recommendations and agreed on an action plan; calls on the Joint Undertaking to present the discharge authority with the implementation level of those recommendations without undue delay; notes that the IAS launched its second risk assessment in November 2019 in order to identify and prioritise the audit topics that will constitute the strategic internal audit plan 2021 to 2023;
28. Observes that the programme office has planned actions in order to reduce the likelihood of occurrence of identified risks and the impact of materialised risks, following the annual risk assessment started in September 2019, and that the risk responses planned for 2019 were implemented; notes that between June and September 2019 the programme office performed a self-assessment of its internal control standards (ICSs) to assess the current level of implementation of the ICSs and to explore the conditions necessary to move the internal control framework (ICF) of the organisation to a higher degree of maturity; notes that from that assessment a few new instances were identified and the most important ones relate to findings of the IAS where corrective actions were added to the action plan; notes that no critical risks emerged in the context of the compliance, effectiveness and efficiency; notes, furthermore, that in 2019 the programme office prepared the condition for an effective transition to a new ICF in line with the most recent practice of the Union bodies
29. 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; notes that the Joint Undertaking must implement the Commission's new principle-based ICF, and that by the end of 2019, the Joint Undertaking had completed a gap analysis compared to the existing internal control system and developed performance indicators for all new internal control principles and related characteristics, and that its governing board adopted the new internal control framework in February 2020;

30. Notes from the Court's report that the Joint Undertaking reported a representative error rate of 0,6 % and a residual error rate of 0,47 % for Horizon 2020 projects (clearings and final payments) based on the *ex-post* audit results of the Commission's common audit service at the end of 2019, compared to the target value of the residual level of error at the closure of the programmes to be as close as possible to 2 %;
31. Notes with concern the Court's finding that detailed audits of a randomly sampled Horizon 2020 payments made in 2019 at the level of the final beneficiaries to corroborate the *ex-post* audit error rates revealed minor quantifiable errors related to the declared personnel costs and that the main sources of such errors were the use of annual hourly rates and overstated monthly hourly rates; calls on the Joint Undertaking to diligently monitor the conditions and declarations on which the payments are made, in order to prevent ineligible payment claims in the future;
32. Notes that following the Commission's interim evaluation report on the Joint Undertaking's in 2017, an action plan was adopted in March 2018; notes that the Joint Undertaking is monitoring the implementation of the action plan, and that in 2019 the majority of actions were followed up in accordance with the agreed deadlines while others remained ongoing; urges the Joint Undertaking to make efforts to finalise the implementation of the action plan and inform the discharge authority of the state of play by June 2021;

Prevention and management of conflicts of interest and transparency

33. Notes that the Joint Undertaking adopted rules on conflicts of interest for all its staff and bodies at the end of 2017, and that the programme office has developed a comprehensive set of rules and procedures that are effectively implemented across its entire governance structure; notes, furthermore, that in 2019, part of that framework was audited by the IAS; urges the Joint Undertaking to re-evaluate and update the rules adopted in 2017; regrets that the Joint Undertaking has failed to publish or make available upon request the CVs and declarations of interest of its executive director and the members of its governing board;
34. Calls on the Joint Undertaking to report to the discharge authority on its policy of funding of industry lobbying and public relations work targeting EU regulators;
35. Calls on the Joint Undertaking to inform the discharge authority in detail about the measures it has adopted for counter harassment and fraud, to prevent conflicts of interest and to protect whistleblowers;

Other Comments

36. Notes that negotiations and preparatory work are underway for the establishment of CircularBio-based Europe (CBE) as a possible successor of the Joint Undertaking; notes that the key objectives of the CBE should be to adopt a fully balanced and transparent decision making processes, continuously monitor the environmental and socio-economic impact of its programme and that a new system be put in place to help prevent private partners from being unable to fulfil their financial obligations; regrets that such improvement efforts were not already undertaken in 2019 to improve the performance and transparency of the Joint Undertaking.
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