

**RESOLUTION (EU) 2023/1957 OF THE EUROPEAN PARLIAMENT****of 10 May 2023****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the Clean Hydrogen Joint Undertaking (before 30 November 2021 the Fuel Cells and Hydrogen 2 Joint Undertaking) for the financial year 2021**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the Clean Hydrogen Joint Undertaking for the financial year 2021,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A9-0083/2023),
- A. whereas the Fuel Cells and Hydrogen Joint Undertaking (the 'FCH Joint Undertaking'), was set up for the period up to 31 December 2017 in May 2008 under the Seventh Research Framework Programme by Council Regulation (EC) No 521/2008 <sup>(1)</sup>; whereas in May 2014, the Council adopted Regulation (EU) No 559/2014 <sup>(2)</sup>, extending the lifetime of the Joint Undertaking under the Horizon 2020 programme for a period until 31 December 2024 (the 'FCH 2 Joint Undertaking'); whereas in November 2021, the Clean Hydrogen Joint Undertaking (the 'Clean H2 Joint Undertaking') was established by Council Regulation (EU) 2021/2085 <sup>(3)</sup> to replace the FCH 2 Joint Undertaking, under the Horizon Europe programme for the period ending on 31 December 2031;
- B. whereas the Clean H2 Joint Undertaking is a public-private partnership in the field of hydrogen and fuel cells technology research and innovation and its founding members are the Union, represented by the Commission, the Industry Grouping (Hydrogen Europe) and the Research Grouping (Hydrogen Europe Research);
- C. whereas the Union financial contribution to the Clean H2 Joint Undertaking, including EEA appropriations, to cover administrative and operational costs is to be up to EUR 1 billion, including up to EUR 30,193 million for administrative costs;
- D. whereas the members of the Clean H2 Joint Undertaking other than the Union are to make or arrange for their constituent or affiliated entities to make a total contribution of at least EUR 1 billion, including up to EUR 30,193 million for administrative costs, over the 10-year period as set out in Regulation (EU) 2021/2085;
- E. whereas the overall objective of the Clean H2 Joint Undertaking is to support research and innovation activities in the Union in clean hydrogen solutions and technologies, under the Union's new funding programme for research and innovation Horizon Europe;

**Budget and financial management**

1. Welcomes the fact that the Court of Auditors' report on the annual accounts (the 'Court's report') of the Clean H2 Joint Undertaking finds the 2021 annual accounts to present fairly, in all material respects, the financial position of the Clean H2 Joint Undertaking on 31 December 2021, 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 account rules adopted by the Commission's accounting officer and that the underlying transactions to the accounts are legal and regular in all material respects;

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<sup>(1)</sup> 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).

<sup>(2)</sup> 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).

<sup>(3)</sup> 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 642/2014 (OJ L 427, 30.11.2021, p. 17).

2. Acknowledges that Horizon Europe envisages ambitious goals for the Clean H2 Joint Undertaking, that can be achieved only if effective solutions that address the weaknesses in the internal control systems and prepare for the future challenges arising from increased responsibilities, for example, in the area of human resources management and planning, are designed and implemented; points out, in this context, that particularly complicated and burdensome calculations and reporting requirements represent a significant risk of error and calls therefore, to explore the possibilities of simplifications wherever possible and compatible with the existing legal framework;
3. Notes that the Clean H2 Joint Undertaking final available budget, which includes re-entered unused appropriations of previous years, assigned revenues and reallocations to the next year, for the financial year 2021 included commitment appropriations of EUR 15,8 million (compared to EUR 104,2 million in 2020) and payment appropriations of EUR 56,2 million (compared to EUR 103,8 million in 2020); notes that the overall 2021 budget execution of commitment and payment appropriations reached 97 % (compared to 94 % in 2020) and 87 % (compared to 95 % in 2020) respectively;
4. Notes that compared to 2020, the 2021 appropriations decreased by 85 % in terms of commitments and by 44 % in terms of payments; notes that the decrease in the 2021 budget was due to the lack of calls launched in 2021; underlines that no pre-financing was planned for 2021;
5. Notes that, at the end of 2021, out of the maximum contribution of EUR 470 million, as provided for in Regulation (EU) 2021/2085 and decisions adopted pursuant thereto, the Union contributed a total of EUR 426,5 million in cash and in-kind from the Seventh Research Framework Programme and the members of the Industry and Research Groupings contributed a total of validated resources of EUR 466 million, comprising EUR 443,9 million in-kind contributions in the Seventh Research Framework Programme projects;
6. Notes, from the Court's report, that, at the end of 2021, the Clean H2 Joint undertaking had committed EUR 425,5 million (95 %) of EUR 450 million of the maximum Union contribution for signed Seventh Research Framework Programme grants agreements of which around EUR 3 million (0,7 %) remains to be paid in the coming years; notes that private members provided in-kind contributions at the same level; notes that the implementation rate for the Clean H2 Joint Undertaking's 2021 payment budget available for Seventh Research Framework Programme projects was 97,8 % (compared to 89 % in 2020) and that in addition, that the Clean H2 Joint Undertaking had almost no 2021 operational commitment appropriations as it finished its last call for proposals by the end of 2014;
7. Notes that, at the end of 2021, the Union contributed a total of EUR 545,5 million from Horizon 2020 and that the private members contributed a total of EUR 50 million in cash and validated in-kind contributions, comprising EUR 38,6 million in in-kind contributions in the Clean H2 Joint Undertaking's Horizon 2020 projects;
8. Notes from the Court's report that the level of validated private members' in-kind contributions for operational activities of EUR 38,6 million, is due to the fact that the Clear H2 Joint Undertaking certifies them later in the Horizon 2020 programme, when the final payment for the projects is made and the certificates of financial statement are due; is pleased that the private members contributed a total of EUR 1 039 million in-kind to additional activities as at the end of 2021, significantly more than the minimum EUR 285 million as provided for in Regulation (EU) 2021/2085 for the entire duration of the Horizon 2020;
9. Notes that, at the end of 2021, the Clean H2 Joint Undertaking had committed EUR 646 million of the maximum Union contribution for signed Horizon 2020 grant agreements and contracts, of which, around EUR 112,6 million (17,8 %) remains to be paid in the coming years; notes, moreover, that the private members had legally committed to provide in-kind contributions of EUR 158,3 million;
10. Notes that the implementation rate for the Clean H2 Joint Undertaking's 2021 commitment and payment budget available for Horizon 2020 projects was 98 % and 87,8 % respectively (compared to 97 % in 2020);

11. Notes that there is no harmonised definition of administrative costs among the joint undertakings, which is a basis for calculating the financial contributions of their members and a precondition for rendering such costs comparable; calls with this in mind for common guidelines for all joint undertakings to take a harmonised approach for the classification of certain administrative cost expenditure categories, such as expenditure for consultations, studies, analyses, evaluations, and technical assistance;

### **Procurement and staff**

12. Welcomes the fact that the management of tenders and contracts has been simplified as far as possible by following the interinstitutional procurement procedures launched by the Commission and using the resulting multiannual framework contracts; notes that the Clean H2 Joint Undertaking cooperates with other Joint undertakings on tendering needs in order to minimise the administrative effort; notes that, as in previous years, most of the Clean H2 Joint Undertaking's contracting was carried out under existing multiannual framework contracts, except mainly for operational procurement activities;
13. Notes that, in terms of volume, the operational procurement activities, IT services and the organisation of the European Hydrogen Week for 2021 were the contracts with the highest value and that launching and publishing a call for tender, and receiving and opening of tenders have been simplified by using eTendering, eNotices and eSubmission modules; notes that the latter enables the automatic registration of tenders with the European Commission's document management IT system; notes that the Clean H2 Joint Undertaking is using the latest version of eSubmission and thus the publication, submission and reception of offers and opening stages are now fully digital;
14. Appreciates the Clean H2 Joint Undertaking's use of EU Sign, a software solution provided by the Commission's Directorate-General of Informatics, which allows a qualified electronic signature (QES) to be applied to documents; notes that the programme office (PO) now applies a QES on its contracts, which facilitates business processes by significantly reducing the time and cost of signing a contract in blue ink and moreover, that QESs, if applied using EU Sign, are legally binding, as they are compliant with Regulation (EU) No 910/2014 of the European Parliament and of the Council <sup>(4)</sup> for electronic transactions within the Union's internal market and provides a higher level of technical security;
15. Notes that on 31 December 2021, the Clean H2 Joint Undertaking had 23 temporary agents, two contract agents and two seconded national experts;
16. Notes from the annual activity report 2021 that in terms of gender balance, the members of staff were 44 % female and 56 % male, with one-third of management positions held by women and two thirds by men; encourages the Clean H2 Joint Undertaking to further improve the gender balance; regrets the fact that the percentage of female project coordinators working, under Horizon 2020, in Commission advisory groups, expert groups, evaluation panels, individual experts, etc. does not exceed 33 %;
17. Notes with concern that during the period from 2018 to 2021 the average annual rate of interim members of staff for all joint undertakings remained high at around 11 % of statutory members of staff; recalls that the high ratio of contractual members of staff tends to increase significantly the Clean H2 Joint Undertaking's staff turnover rate and further destabilises the staffing situation; emphasises, moreover, that the use of interim members of staff should remain a temporary solution or it could negatively affect the Clean H2 Joint Undertaking's overall performance, such as the retention of key competences, unclear accountability channels, possible judicial disputes and lower staff efficiency;

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<sup>(4)</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

18. Notes that the part of the employers' contributions for the members of staff of the joint undertakings corresponding to the ratio of their third-country subsidised revenues to their total revenues, has not been paid by the joint undertakings to the Union pension scheme since 2016, as the Commission has neither provided for this expenditure in the budget of the joint undertakings nor formally requested the payments; calls for the Commission to take steps to avoid similar issues in the future;
19. Notes that, in 2021, joint IT sessions were organised together with the other joint undertakings with the main purpose of preparing for the switch to Office 365, SharePoint and OneDrive;
20. Notes, from the annual activity report that during the COVID-19 pandemic, members of staff took time to participate in online training in order to expand their knowledge related to their jobs, notes that participation in training was highly encouraged to keep members of staff motivated and connected with others during the lockdown;
21. Notes that, in February 2021, the FCH 2 Joint Undertaking on-boarded Sysper, and that throughout the year new modules were added; appreciates, moreover the use of the Mission Processing System and the feature for members of staff evaluations and promotions is expected; supports the use of the new recruitment tool, Systal, that was rolled out to the FCH 2 Joint Undertaking in November 2021, and the next recruitment will be done using this system and is of the opinion that such tools can help to support the necessary recruitment of highly skilled workers;

#### **Internal audit**

22. Notes, from the annual activity report, that the internal audit is carried out in accordance with Article 20 of the Clean H2 Joint Undertaking's financial regulation;
23. Highlights that, in 2021, the internal audit service (IAS) accepted an action plan developed by the FCH 2 Joint Undertaking to address two important recommendations stemming from the IAS audit on Horizon 2020 grant implementation in the FCH 2 Joint Undertaking and concluded that the action plan is adequate to mitigate the risks identified;
24. Notes that, in 2021, in line with the agreed action plan, the FCH 2 Joint Undertaking formalised the current monitoring practices regarding risks and complexity of the grant agreements and developed internal guidance for monitoring dissemination and exploitation of the Horizon 2020 project results; notes that, by the end of 2021, the FCH 2 Joint Undertaking considered all action plans fully implemented;

#### **Internal control**

25. Notes, from the Court's report, that for Seventh Research Framework Programme interim and final payments, the Clean H2 Joint Undertaking performs *ex post* audits at the beneficiaries, whilst for Horizon 2020 payments, the common audit service of the Commission's Directorate-General for Research and Innovation is responsible for the *ex post* audits; notes that, based on the *ex post* audit results available at the end of 2021, the Clean H2 Joint Undertaking reported a representative error of 2,0 % (compared to 1,97 % in 2020) and a residual error rate of 1,0 % (compared to 1,01 % for 2020) for its Seventh Research Framework Programme projects, and a representative error rate of 2,16 % (same as 2020) and a residual error rate of 1,3 % (compared to 1,34 % for 2020) for Horizon 2020 projects (clearings and payments);
26. Notes that, to assess the operational payment controls of the Clean H2 Joint Undertaking, the Court of Auditors (the 'Court') audited randomly sampled Horizon 2020 payments made in 2021, at the level of the final beneficiaries, to corroborate the *ex post* audit error rates (regarding the grant payment transactions tested at the beneficiaries, the reporting threshold for quantifiable errors is 1 % of the audited costs); regrets the fact that, in one case, the Court found and quantified an error resulting from personnel costs having been over claimed due to a clerical mistake, and in another case, a systemic non-quantifiable control weakness related to the absence of the beneficiary's validation procedure for the worked hours on the project;

27. Notes, from the annual activity report, because of persistent systemic errors in declared personnel costs, particularly on the part of small and medium-sized enterprises (SMEs) and new beneficiaries (who are more error-prone than other beneficiaries), the Clean H2 Joint Undertaking had already strengthened its internal control to address the increased risk regarding SMEs and new beneficiaries; notes that these measures were evident for the first time in 2021 and contributed to significantly lowering the representative error rate from SMEs and new beneficiaries in the last two years; welcomes the positive results in terms of reduced error rates and the willingness of the Clean H2 Joint Undertaking to continue with the reinforced risk-based controls in 2022, with aid of the reinforced monitoring tool available in the corporate COMPASS/SyGMA system for Horizon 2020 grants management;
28. Emphasises, furthermore, that streamlining of the Horizon 2020 rules for the declaration of personnel costs and wider use of simplified cost options is a precondition to stabilise error rates to below materiality level; welcomes the fact that in 2022 all joint undertakings have started implementing actions for error rate reductions in line with the action proposed by the Court including exploring the options of simplified forms of costs such as unit costs, lump sums and flat rates;
29. Notes, from the Court's report that for Clean H2 Joint Undertaking the follow-up of all previous years' observations was completed because of the Clean H2 Joint Undertakings' corrective actions taken during 2021;

#### **Prevention and management of conflicts of interest, and anti-fraud strategy**

30. Welcomes the fact that conflicts of interest procedures were in place for the members of both the FCH 2 Joint Undertaking Governing Board and the advisory bodies, and were renewed in December 2021 in the scope of newly adopted rules of procedures of the Governing Board for the Clean H2 Joint Undertaking and that, in addition, specific measures have been implemented for the prevention and management of conflicts of interest of experts in charge of the evaluation of grant applications and of the review of projects and tenders;
  31. Notes that the Clean H2 Joint Undertaking actively contributed to the development of the Horizon Europe control strategy (*ex ante* audit and fraud prevention) by participating in the dedicated working groups set up by the Common Implementation Centre and providing input;
  32. Is pleased that the Clean H2 Joint Undertaking also ensures the implementation of the research community's common anti-fraud strategy; welcomes the fact that the main actions derived from the strategy include the organisation of awareness-raising sessions within the Joint Undertaking and cooperation with the European Anti-Fraud Office in the case of risk-based audits conducted by the common audit service or outsourced contractors.
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