



Plenary sitting

A8-0127/2017

30.3.2017

REPORT

on discharge in respect of the implementation of the budget of the European
Institute of Innovation and Technology for the financial year 2015
(2016/2191(DEC))

Committee on Budgetary Control

Rapporteur: Inés Ayala Sender

CONTENTS

	Page
1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION	3
2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION	5
3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	7
INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE	13
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	14

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Institute of Innovation and Technology for the financial year 2015 (2016/2191(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Institute of Innovation and Technology for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the European Institute of Innovation and Technology for the financial year 2015, together with the Institute's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 21 February 2017 on discharge to be given to the Institute in respect of the implementation of the budget for the financial year 2015 (05873/2017– C8-0077/2017),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology⁴, and in particular Article 21 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A8-0127/2017),

¹ OJ C 449, 1.12.2016, p. 112.

² OJ C 449, 1.12.2016, p. 112.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 97, 9.4.2008, p. 1.

⁵ OJ L 328, 7.12.2013, p. 42.

1. Grants the Director of the European Institute of Innovation and Technology discharge in respect of the implementation of the Institute's budget for the financial year 2015;
2. Sets out its observations in the resolution below;
3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Director of the European Institute of Innovation and Technology, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Institute of Innovation and Technology for the financial year 2015 (2016/2191(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Institute of Innovation and Technology for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the European Institute of Innovation and Technology for the financial year 2015, together with the Institute's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 21 February 2017 on discharge to be given to the Institute in respect of the implementation of the budget for the financial year 2015 (05873/2017– C8-0077/2017),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 294/2008 of the European Parliament and of the Council of 11 March 2008 establishing the European Institute of Innovation and Technology⁴, and in particular Article 21 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A8-0127/2017),

¹ OJ C 449, 1.12.2016, p. 112.

² OJ C 449, 1.12.2016, p. 112.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 97, 9.4.2008, p. 1.

⁵ OJ L 328, 7.12.2013, p. 42.

1. Approves the closure of the accounts of the European Institute of Innovation and Technology for the financial year 2015;
2. Instructs its President to forward this decision to the Director of the European Institute of Innovation and Technology, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Institute of Innovation and Technology for the financial year 2015 (2016/2191(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Institute of Innovation and Technology for the financial year 2015,
 - having regard to the Court of Auditors' special report No 12/2016 entitled "the Agencies' use of grants: not always appropriate or demonstrably effective",
 - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control (A8-0127/2017),
- A. whereas, according to its financial statements, the final budget of the European Institute of Innovation and Technology (the "Institute") for the financial year 2015 was EUR 266 566 618, representing an increase of 14,35 % compared to 2014,
- B. whereas, according to its financial statements, the overall contribution of the Union to the Institute's budget for 2015 amounted to EUR 215 030 200, representing an increase of 26,63 % compared to 2014,
- C. whereas the Court of Auditors (the "Court"), in its report on the Institute's annual accounts for the financial year 2015 (the "Court's report"), stated that it had obtained reasonable assurances that the Institute's annual accounts are reliable, but could not obtain sufficient appropriate audit evidence on the legality and regularity of the underlying transactions,
- D. whereas in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the of the Union institutions by improving transparency and accountability, implementing the concept of performance based budgeting and good governance of human resources,

Basis for a qualified opinion on the legality and regularity of the underlying transactions

1. Recalls that the Union contribution to the Institute's budget in the 2014 to 2020 financial period is provided under the financial envelope of the Horizon 2020, as well as that the Institute is bound by the provisions of Regulation (EU) No 1290/2013 (the "Horizon 2020 rules"); recalls, moreover, that Horizon 2020 is the successor programme of the Seventh Framework Programme, which ran from 2007-2013 and in which the Institute did not participate;
2. Points out that from 1 January 2014 the legal basis for the reimbursements of indirect eligible costs related to grants is Article 29(1) of Horizon 2020 rules, together with

Article 90(1) of the Institute's financial regulation¹ which provides for a flat rate reimbursement of 25 % of the indirect eligible costs related to grants; notes, however, that, according to Article 75(8) of the Institute's former financial rules², repealed with effect from 1 January 2014, the threshold for a flat rate reimbursement of indirect costs for non-profit public bodies, higher education establishments, research organisations or SMEs could have been raised to 40 %;

3. Notes that, according to the Court's report, the Institute, in its 2014 grant agreements signed in February 2014, provided for a 40 % flat rate reimbursement of indirect eligible costs contrary to the Horizon 2020 rules already in force at the time; notes, moreover, the Court's opinion that, as the Institute did not participate in the Seventh Framework Programme, Article 57 of the Horizon 2020 rules which dealt with the transition from the Seventh Framework Programme to Horizon 2020 did not apply to the Institute and the Court therefore identified those reimbursements as irregular;
4. Notes that, according to the Court's report, the errors found as a result of *ex-post* verification of a sample of 2015 grant transactions, after correcting for the overpayment of the abovementioned flat rate reimbursements, led to a residual error rate of 2 % for the 2014 grant transactions; acknowledges the fact that, according to the Court, the combined error rate for both identified *ex-post* verification errors and the flat rate reimbursements was 4,9 % of the Institute's total 2015 expenditure, resulting in the Court's issuing of a qualified opinion on the legality and regularity of the transactions underlying the Institute's accounts;
5. Notes, however, that the Institute's grant agreements were based on the annual call for the preparation of the 2014 Knowledge and Innovation Community (KIC) business plans, launched by the Institute in April 2013; notes, moreover, that, according to the Institute's financial rules in force at that time, as well as to Article 189 of Commission Delegated Regulation (EU) No 1268/2012³, the Institute's call allowed the grant beneficiaries falling into the categories described in Article 75(8) of the Institute's financial rules to establish their project budgets, for activities planned for 2014, using the 40 % flat rate reimbursement for budgeting of indirect costs; notes that the KICs participating in the April 2013 call relied on this provision when constructing and submitting this proposal;
6. Notes, moreover, that the Institute's governing board, following the evaluation of the 2014 KIC business plans by external experts, decided on the 2014 funding allocation to KICs on 5 December 2013, before adopting the Horizon 2020 rules; notes from the Institute that the 2014 grant agreements were signed in line with the initial conditions of the annual call;
7. Is of the opinion that the transitional measures under Article 57(2) of the Horizon 2020 rules were not meant to be restricted solely to the assistance granted under the Seventh

¹ Decision of the governing board of the European Institute of Innovation and Technology (EIT) of 27 December 2013 on adopting the financial regulation for the European Institute of Innovation and Technology.

² Decision by the European Institute of Innovation and Technology of 20 April 2009 adopting the Financial Rules of the European Institute of Innovation and Technology.

³ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

Framework Programme, but also to other ongoing actions in the field of research and innovation which were subject to Horizon 2020 rules after its entry into force, such as the Institute's 2014 grant agreements; highlights that the purpose of the transitional measure provided by Article 57 of the Horizon 2020 rules is to provide legal certainty and to ensure the continuity of the legal framework applicable at the time of the initiation of such actions; acknowledges that the Institute's subsequent grant agreements are in line with the Horizon 2020 rules in force, in particular with regard to the application of the flat rate reimbursement of 25 % of the indirect eligible costs related to grants, as well as that no further corrective measure could be taken by the Institute regarding this issue; notes also that any attempt to recover the funds deemed irregular by the Court could lead to legal actions from many of the Institute's beneficiaries, which risks resulting in significant reputational damage for the Institute, as well as the Horizon 2020 and the Commission as a whole;

Comments on the legality and regularity of transactions

8. Notes from the Court's report that in 2015, the Institute informed the KICs that its financial contribution over the first five years (2010 to 2014), did not exceed the 25 % ceiling of their respective global expenditure; notes, moreover, that the poor definition of KIC Complementary Activities (KCAs) impaired any clear assessment as to whether costs associated to KCA should be accepted or not in the maximum Institute contribution; acknowledges from the Institute and the Commission that they accepted the Court's recommendation to remove the 25 % funding condition in order to alleviate the operational and financial reporting burden on the KIC Partners; acknowledges that, until such an amendment is adopted, the Institute is to implement the applicable legal basis;

Budget and financial management

9. Notes that, according to the Institute's final accounts that its budget monitoring efforts during the financial year 2015 resulted in an authorised budget implementation rate of 90,58 %, representing a decrease of 3,55 % compared to the previous year; notes that the payment appropriations execution rate was 96,49 %, representing an increase of 4,02 % compared to 2014;
10. Notes from the Court's report that even though the Institute is allowed to re-enter unused appropriations in the budgets of the following three years, it had not adapted its process in time to re-enter EUR 26 600 000 available from the 2014 grant agreements in the 2015 to 2017 budgets; notes, moreover, that those appropriations result from the lower than expected use of funds by KICs; notes from the Institute that in 2015 it carried out a budget review, as well as that it requested the KICs to revise their 2015 business plans and budgets which were resubmitted as amended; notes that, as a result of the reduction in KIC budgets, the Institute could decommit unspent amounts, which have then been cancelled and re-entered in the estimate of revenue and expenditure for 2016; notes that this resulted in an improvement management of the Institute's budget in close collaboration with the KICs;

Commitments and carry-overs

11. Notes that, according to the Court's report, the level of carry-overs for committed

appropriations for Title II was at EUR 400 000 (44 %), compared to EUR 500 000 (36 %) in 2014; acknowledges that those carry-overs related mainly to contracts for IT services going beyond year-end and for meetings for which invoices had not yet been received;

12. Notes that carry-overs may often be partly or fully justified by the multiannual nature of the Agencies' operational programmes, do not necessarily indicate weaknesses in budget planning and implementation and are not always at odds with the budgetary principle of annuality, in particular if they are planned in advance and communicated to the Court;

Internal controls

13. Recalls that according to Article 34 of the Horizon 2020 rules, the certificate on the financial statements (CFS) requested from KIC partners claiming reimbursement of more than EUR 325 000 is to contribute to the Institute's *ex-ante* verification of cost statements; notes that, according to the Court's report that the quality of those certificates varies significantly, limiting the assurance that can be obtained from them and requiring the Institute to carry out additional checks; notes that, according to the Institute, it applies the audit certificate methodology devised by the Commission's Directorate General for Research and Innovation for Horizon 2020, starting from the 2014 grant agreements; acknowledges, furthermore, the fact that the revised methodology includes more detailed instructions and agreed upon procedures as well as 63 standard factual findings covering all cost categories; recognises that the Institute has developed a comprehensive grant assurance strategy that is built on both *ex-ante* and *ex-post* verification, including the CFS, in order to ensure the legality and regularity of transactions;

Prevention and management of conflicts of interests and transparency

14. Notes that the annual declarations of interests of governing board members, the interim director and senior management staff are published on the Institute's website; notes also that a screening of submitted declarations is performed to verify their factual accuracy; observes that in the case of experts, the Institute follows the Horizon 2020 rules on conflicts of interests;
15. Notes that the Institute intends to conclude its internal rules on whistleblowing in the first half of 2017; calls on the Institute to adopt an internal whistleblowing policy which will foster a culture of transparency and accountability in the workplace, to regularly inform and train employees on their duties and rights, to ensure protection of the whistleblower from reprisal, to follow up the substance of whistleblowers' alerts in a timely manner and to put in place a channel for anonymous internal reporting; calls on the Institute to publish annual reports on the number of whistleblower cases and the follow-up received and to provide these to the discharge authority; asks the Institute to keep the discharge authority informed of its progress in this matter;
16. Notes that, according to the Court, for the selection of external experts evaluating KIC proposals and business plans the Institute makes use of Article 89 of the Institute's financial regulation to derogate from the obligation of launching a call for expression of interest; notes, however, that the Institute has not fully established internal procedures to

regulate implementation of this derogation; notes that, in practice, Institute established its pool of experts using existing expert lists and databases of other institutions and bodies of the Union and individuals not on these lists following recommendations from the Institute governing board and members of staff; nevertheless welcomes improvements in the expert selection process for KIC proposals and encourages the Institute to be committed to improving the efficiency and effectiveness of this process and ensuring maximum transparency and integrity thereof by setting relevant internal measures, while ensuring absence of potential conflict of interest;

17. Notes with concern that the Institute has not taken specific initiatives in order to increase transparency relating to its contacts with stakeholders and lobbyists; calls on the Institute to enact a proactive lobby transparency policy;

Recruitment procedures

18. Notes with satisfaction that the Institute has achieved full staffing through a series of measures implemented in 2015 to 2016 to improve the staff management, recruitment process and work environment; observes that as of December 2016, the Institute employs 59 members of staff for the 63 authorised positions, which represents the highest number of members of staff employed in the history of the Institute, and that recruitment for remaining vacant posts is ongoing; acknowledges, nevertheless, that the actions taken by the Institute cannot fully compensate for the negative effects of the low and steadily decreasing correction coefficient affecting salary levels in Hungary;

Other comments

19. Notes that, according to the Court, the original target set by the Commission for the Institute to obtain financial autonomy was 2010; notes, furthermore, that the Institute obtained partial financial autonomy in June 2011, on the condition of continued *ex-ante* approval of grant related transactions and of procurements above EUR 60 000 by the Commission's Directorate-General for Education and Culture; notes that, according to the Institute, it requested that the Commission re-launch the process leading to full financial autonomy; acknowledges, furthermore, that the Commission set out the roadmap and timetable of the process in May 2016 and looks forward to the Commission's financial autonomy assessment which is expected in the first half of 2017; notes that the Institute hopes that full financial autonomy will be granted before the end of 2016 and asks that it reports to the discharge authority on developments related to this matter;
20. Notes that, according to the Court, despite a valid rationale, the Institute's complex operational framework and management problems have impeded its overall effectiveness; notes that the Institute has an ability to support the entire innovation scheme from start-ups to innovation-driven projects run by multiple KIC partners, however, it lacks coordination at Union level with the relevant Commission's DGs, and the interaction between the KICs and other Union initiatives is insufficient;
21. Notes that the Institute funds the "EIT Digital Master's programme", which combines a lump sum of maximum EUR 8 000 per student in addition to actual costs including flat rate based indirect costs; notes that, according to the Court, this funding model has never been formally defined and does not allow a distinction between activities covered

by the lump sum and those covered by the actual costs; notes that, according to the Institute it should move towards a single lump sum model for financing such programmes in order to simplify the cost reporting once sufficient statistical data is available to establish such a single lump sum; calls on the Institute to report to the discharge authority on the implementation of the new financing model;

22. Notes that, according to the Court's report, one KIC legal entity paid performance-based additional remuneration of EUR 646 000 to 55 of its members of staff, based on the decision of the KIC supervisory board and which the Institute reimbursed in full; notes that, according to the Court, paying such performance-based remuneration using public funds is an unusual practice; accepts, however, that the KICs are business-driven organisations which aim for financial sustainability, and where the use of variable elements as part of the basic remuneration can provide a strong incentive for good performance and ensure that value for money is achieved; notes, furthermore, that Horizon 2020 expressly provides for variable components of basic remuneration to be eligible costs; highlights the fact that the Institute's contribution to salaries paid to KIC management staff, including performance-based remuneration, is to be kept below the ceiling established by the Institute in its 2016 grant agreements and onwards; notes that under the reformed rules with double ceilings which applied from 2016, the high levels of performance-based additional remuneration paid in 2015 are no longer possible;
23. Notes that the principle of sound financial management was also breached when a KIC partner procured public relations services with daily rates ranging from EUR 800 to EUR 3 250 per person, which was also fully reimbursed by the Institute;
24. Notes that 45 members of staff participated in 2015 in "other events" for which the cost was EUR 10 730,21 (EUR 238,45) per person;
25. Notes with concern that general visibility of the Institute is low and some of the KICs' partners are not aware of their affiliation with the Institute; calls for better visibility and promotion of the Institute brand as a unique innovation community; welcomes the recent success in listing 18 Institute Community Members in the Forbes 30 under 30 list, featuring Europe's best young innovators and entrepreneurs;
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26. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2017]¹ [on the performance, financial management and control of the agencies].).

¹ Texts adopted of that date, P[8_TA(-PROV)(2017)0000].

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	22.3.2017
Result of final vote	+: 23 -: 5 0: 0
Members present for the final vote	Inés Ayala Sender, Dennis de Jong, Tamás Deutsch, Martina Dlabajová, Luke Ming Flanagan, Ingeborg Gräßle, Cătălin Sorin Ivan, Jean-François Jalkh, Bogusław Liberadzki, Monica Macovei, Notis Marias, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Hannu Takkula, Derek Vaughan, Joachim Zeller
Substitutes present for the final vote	Richard Ashworth, Gerben-Jan Gerbrandy, Benedek Jávor, Karin Kadenbach, Julia Pitera, Patricija Šulin
Substitutes under Rule 200(2) present for the final vote	Raymond Finch, Jens Geier, Piernicola Pedicini, Janusz Zemke

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

23	+
ALDE	Martina Dlabajová, Gerben-Jan Gerbrandy, Hannu Takkula
ECR	Monica Macovei
GUE/NGL	Luke Ming Flanagan, Dennis de Jong
PPE	Tamás Deutsch, Ingeborg Gräßle, Julia Pitera, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Joachim Zeller, Patricija Šulin
S&D	Inés Ayala Sender, Jens Geier, Cătălin Sorin Ivan, Karin Kadenbach, Bogusław Liberadzki, Derek Vaughan, Janusz Zemke
VERTS/ALE	Benedek Jávor, Bart Staes

5	-
ECR	Richard Ashworth, Notis Marias
EFDD	Raymond Finch, Piernicola Pedicini
ENF	Jean-François Jalkh

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention