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REPORT

on discharge in respect of the implementation of the budget of the ENIAC Joint Undertaking for the financial year 2012
(C7-0341/2013 – 2013/2253(DEC))

Committee on Budgetary Control

Rapporteur: Paul Rübig

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 |
| RESULT OF FINAL VOTE IN COMMITTEE..... | 14 |

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the ENIAC Joint Undertaking for the financial year 2012 (C7-0341/2013 – 2013/2253(DEC))

The European Parliament,

- having regard to the final annual accounts of the ENIAC Joint Undertaking for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2012, together with the Joint Undertaking's replies¹,
- having regard to the Council's recommendation of 18 February 2014 (05851/2014 – C7-0053/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
- 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 Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking⁴, and in particular Article 11(4) thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵,
- 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 Council⁶, and in particular Article 108 thereof,
- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,

¹ OJ C 369, 17.12.2013, p. 18.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 30, 4.2.2008, p. 21.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control (A7-0204/2014),
- 1. Grants the Executive Director of the ENIAC Joint Undertaking discharge in respect of the implementation of the Joint Undertaking's budget for the financial year 2012;
- 2. Sets out its observations in the resolution below;
- 3. Instructs its President to forward this Decision and the resolution that forms an integral part of it to the Executive Director of the ENIAC Joint Undertaking, 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 ENIAC Joint Undertaking for the financial year 2012
(C7-0341/2013 – 2013/2253(DEC))**

The European Parliament,

- having regard to the final annual accounts of the ENIAC Joint Undertaking for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2012, together with the Joint Undertaking's replies¹,
- having regard to the Council's recommendation of 18 February 2014 (05851/2014 – C7-0053/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
- 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 Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking⁴, and in particular Article 11(4) thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵,
- 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 Council⁶, and in particular Article 108 thereof,
- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,

¹ OJ C 369, 17.12.2013, p. 18.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 30, 4.2.2008, p. 21.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control (A7-0204/2014),
- 1. Approves the closure of the accounts of the ENIAC Joint Undertaking for the financial year 2012;
- 2. Instructs its President to forward this Decision to the Executive Director of the ENIAC Joint Undertaking, 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 its Decision on discharge in respect of the implementation of the budget of the ENIAC Joint Undertaking for the financial year 2012

(C7-0341/2013 – 2013/2253(DEC))

The European Parliament,

- having regard to the final annual accounts of the ENIAC Joint Undertaking for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the ENIAC Joint Undertaking for the financial year 2012, together with the Joint Undertaking's replies¹,
- having regard to the Council's recommendation of 18 February 2014 (05851/2014 – C7-0053/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
- 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 Council Regulation (EC) No 72/2008 of 20 December 2007 setting up the ENIAC Joint Undertaking⁴, and in particular Article 11(4) thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵,
- 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 Council⁶, and in particular Article 108 thereof,

¹ OJ C 369, 17.12.2013, p. 18.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 30, 4.2.2008, p. 21.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to its previous discharge decisions and resolutions;
 - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control (A7-0204/2014),
- A. whereas the ENIAC Joint Undertaking ("the Joint Undertaking") was set up on 20 December 2007 for a period of 10 years to define and implement a “research agenda” for the development of key competences for nanoelectronics across different application areas,
- B. whereas the Joint Undertaking was granted its financial autonomy in July 2010,
- C. whereas the maximum contribution for the period of 10 years from the Union to the Joint Undertaking is EUR 450 000 000 to be paid from the budget of the Seventh Research Framework Programme,

Budgetary and financial management

1. Notes that the Court of Auditors stated that the 2012 annual accounts of the Joint Undertaking present fairly, in all material respects, its financial position as of 31 December 2012 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Rules;
2. Is concerned that the Joint Undertaking received, for the second year in a row, a qualified opinion from the Court of Auditors on the legality and regularity of the transactions underlying the annual accounts on the grounds that the Joint Undertaking was not in a position to assess whether the *ex post* audit strategy, which relies heavily on the national funding authorities to audit project cost claims, provides sufficient assurance with respect to the legality and regularity of the underlying transactions;
3. Notes that the Court of Auditors considers that the information available on the implementation of the Joint Undertaking’s *ex post* audit strategy is not sufficient for the Court of Auditors to conclude whether this key control tool is functioning effectively; reiterate its call for the Court of Auditors, through its independent audits, to provide the discharge authority with its own opinion on the legality and the regularity of the transactions underlying the annual accounts of the Joint Undertaking;
4. Recalls that the Joint Undertaking adopted an *ex post* audit strategy in 2010 and that its implementation started in 2011; notes that the audit of project cost claims has been delegated to the National Funding Authorities (NFAs) of the Member States; takes note that the Joint Undertaking *ex-post* audit strategy relies on the NFAs to audit project cost claims;
5. Calls on the ENIAC Joint Undertaking to submit a report to Parliament on the negative aspects recorded by the Court of Auditors; calls for that report to be submitted to Parliament together with an assessment by the Court of Auditors;

6. Notes, further, that the Joint Undertaking carried out in 2012 a limited review of cost claims that concluded that the error rate in the programme is below 2 %; notes the Court of Auditors' opinion that the exercise did not include any audits and did not provide assurance as to the regularity of the cost claims reviewed; insists that the Joint Undertaking should reinforce without delay the quality of its ex ante and ex post controls; requests that the discharge authority is informed of the results of the following ex post audit processes;
7. Takes note that the Joint Undertaking's 2012 final budget included commitment and payment appropriations amounting to EUR 128 million and 42 million respectively and that the utilisation rates were 100 % for commitment appropriations and 52 % for payment appropriations respectively; calls for a detailed progress report on those shortcomings, accompanied by specific proposals for a gradual improvement in utilisation rates;
8. Notes, furthermore, that out of the EUR 125,5 million commitment appropriations available for operational activities, EUR 17,6 million was implemented as a global commitment for the first 2012 call for proposals and EUR 107,9 million was implemented as a global commitment for the second 2012 call for proposals; observes that the average time between the launch of a call and the signing of agreements was 12 months; expects that this time frame is reduced for further calls;
9. Is concerned that the unused global commitment of EUR 2,8 million assigned to operational activities for 2010, which came with a final implementation date of 31 December 2011, had not been decommitted by the end of 2012; takes note that the Joint Undertaking identified and implemented corrective actions to prevent any future recurrence of this control weakness;

ENIAC Member States' contribution

10. Takes note that for the first seven calls for proposals, the financial contribution from ENIAC Member States amounted to 1,41 times the Union financial contribution against the Joint Undertaking's statutory principle that the financial contributions from ENIAC Member States are to amount in total to at least 1,8 times the Union financial contribution, while the Joint Undertaking's grants may reach a maximum of 16,7 % of the total eligible costs of the projects; notes, furthermore, that the ratio between the Union contribution and the ENIAC Member States contribution is a mechanical result of the application of the State Aid rules (Commission Regulation (EC) No 800/2008¹) limiting the percentage of state aid for particular types of actions and participants;

Calls for proposals

11. Notes that up to 2011, the Joint Undertaking issued calls for proposals resulted in grant agreements totalling EUR 170,2 million, which represents 39 % of the maximum Union

¹ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ L 214, 9.8.2008, p. 3).

contribution to the Joint Undertaking for research activities and that in 2012 and 2013, four calls for proposals were launched for a total of EUR 125,4 million and EUR 39,7 million respectively;

Prevention and management of conflicts of interests and transparency

12. Regrets that the CVs of the members of the Management Board and the Executive Director are not publicly available; calls on the Joint Undertaking to remedy the situation as a matter of urgency; urges the Joint Undertaking, in the framework of the future ECSEL Joint Undertaking, to develop and adopt a comprehensive policy on the prevention and management of conflicts of interests;
13. Believes that a high level of transparency is a key element in order to mitigate the risks of conflicts of interests; calls, therefore, on the Joint Undertaking to make its policy and/or arrangements on the prevention and management of conflicts of interests and its implementing rules as well as the list of the members of the management boards and CVs, available on its website;
14. Invites the Court of Auditors to monitor the Joint Undertaking's policies as regards the management and prevention of conflicts of interests by drafting a Special Report on the matter by the next discharge procedure;

Internal control systems

15. Takes note that during 2012 the Joint Undertaking set up its internal audit capability, the disaster recovery plan was finalised and tested and the accounting officer validated the financial and accounting systems (ABAC and SAP);

Electronic Components and Systems for European Leadership (ECSEL) Joint Undertaking

16. Recalls that Artemis and ENIAC Joint Undertakings were set up in December 2007, under the Seventh Framework Programme, for a period of 10 years, respectively, for the development of key competences for nanoelectronics and for the development of key technologies for embedded computing systems respectively; notes that Artemis started to work autonomously in October 2009 and ENIAC was granted its financial autonomy in July 2010;
17. Recalls the continued worries of the discharge authority concerning the low implementation rates of their budget and, moreover, about the underlying activities of the Joint Undertakings associated with high cash balances; recalls that they sought to increase and leverage private and public investments in research and innovation in two complementary domains of high importance for the industrial fabric of the Union;
18. Notes that the Commission made a proposal, in the context of the implementation of Horizon 2020, to combine Embedded computing systems (Artemis) and Nanoelectronics (ENIAC) into a single initiative and therefore wind-up Artemis and ENIAC Joint Undertakings before their normal end of life up to 31 December 2017 (COM(2013)0501);

notes that the new Joint Undertaking in the field of electronic components and systems called ECSEL ('Electronic Components and Systems for European Leadership') will take the form of a tripartite institutional Public-Private Partnership (PPP) with a dedicated legal entity involving the private sector, national authorities and European authorities;

19. Notes that this new legal entity under Article 187 TFEU will follow the model financial regulation for PPP bodies referred to in Article 209 of the Financial Regulation, charged with indirect management and it would take over all rights and obligations of the current Artemis and ENIAC Joint Undertakings; expects that complete and appropriate financial assessments of rights and obligations of each entity will be executed by the Court of Auditors; recalls, in this context, the joint statement by the European Parliament, the Council and the Commission on the separate discharge for Joint Undertakings under Article 209 of the Financial Regulation;
20. Is surprised that in such a reduced time frame and without a final conclusive assessment of those Joint Undertakings' achievements, the Commission has decided to substantially adapt the Union's implementing strategy for the development of key competences for nanoelectronics and for the development of key technologies for embedded computing systems; recalls Parliament's request for a cost-benefit analysis of a merger that highlights its possible advantages and disadvantages;
21. Notes that the interim evaluations recommended the implementation of the future JTI on a legal basis that is better attuned to the specificities of Public-Private Partnerships with a lighter administrative overhead and greater flexibility with the administrative burden reduced in order to attract the participation from high-level industry representatives;
22. Further notes that in order to achieve its objectives, the ECSEL Joint Undertaking should provide financial support mainly in the form of grants to participants following open and competitive calls for proposals targeted at proven market failures;
23. Regrets that the Commission proposal excludes the examination of the accounts and the revenue and expenditure of the ECSEL Joint Undertaking by the Court of Auditors and indicates that the accounts of that Joint Undertaking will be examined annually by an independent audit body; invites the Commission to clarify what is the added value of such a proposal; stresses that the Court of Auditors has been the exclusive auditor for Joint Undertakings set up under Article 187 TFEU since 2002 and therefore building up extensive knowledge over those bodies that should not be wasted;

European Research Joint Undertakings horizontal aspects

24. Takes note that the audit approach taken by the Court of Auditors comprises analytical audit procedures, assessment of key controls of the supervisory and control systems and testing of transactions at the level of the Joint Undertaking but not at the level of the members or final beneficiaries of the Joint Undertaking;
25. Notes that audit testing at the level of the members or final beneficiaries is carried out either by the Joint Undertaking or by external audit firms contracted and monitored by the Joint Undertaking;

26. Welcomes the Court of Auditors' Special Report 2/2013: 'Has the Commission ensured efficient implementation of the Seventh Framework Programme for Research?' where the Court of Auditors examined whether the Commission has ensured efficient implementation of the Seventh framework programme for research and technological development (FP7);
27. Takes note that the audit also covered the setting-up of the Joint Technology Initiatives (JTIs);
28. Agrees with the Court of Auditors' conclusion that the JTIs have been set up to support long-term industrial investment in particular research areas; notes, however, that it has taken on average two years to grant financial autonomy to a JTI with the Commission usually remaining responsible for one third of the expected operational lifetime of the JTIs;
29. Notes, moreover, that according to the Court of Auditors, some JTIs have been particularly successful in getting small and medium-sized enterprises (SMEs) involved in their projects and nearly 21 % of funding provided by the JTIs has gone to SMEs;
30. Draws attention to the fact that the total indicative resources deemed necessary for the seven European Research Joint Undertakings that have so far been established by the Commission under Article 187 of the Treaty on the Functioning of the European Union - with the notable exception of the Galileo Joint Undertaking - for their period of existence amounts to EUR 21 793 000 000;
31. Notes that the Joint Undertakings' total 2012 forecasted budgeted income amounted to some EUR 2,5 billion or about 1,8 % of the 2012 Union general budget while approximately EUR 618 million came from the EU general budget (cash contribution from the Commission) and approximately EUR 134 million came from the industrial partners and members of the Joint Undertakings;
32. Notes that the Joint Undertakings employ 409 permanent and temporary staff or less than 1 % of total Union officials authorised under the Union general budget (staff establishment plan);
33. Recalls that the total Union contribution deemed necessary for the Joint Undertakings for their period of existence amounts to EUR 11 489 000 000;
34. Invites the Court of Auditors to comprehensively analyse the JTIs and the other joint undertakings in a separate report in light of the substantial amounts involved and the risks - notably reputational - presented; recalls that Parliament has previously requested that the Court of Auditors draw up a special report on the capacity of the joint undertakings, together with their private partners, to ensure added value and efficient execution of Union research, technological development and demonstration programmes; claims that such assessment has an urgent character in what considers Artemis and ENIAC Joint Undertakings.

RESULT OF FINAL VOTE IN COMMITTEE

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| Date adopted | 18.3.2014 |
| Result of final vote | +: 21 -: 1 0: 1 |
| Members present for the final vote | Marta Andreasen, Jean-Pierre Audy, Inés Ayala Sender, Zuzana Brzobohatá, Tamás Deutsch, Martin Ehrenhauser, Jens Geier, Gerben-Jan Gerbrandy, Ingeborg Gräßle, Rina Ronja Kari, Jan Mulder, Eva Ortiz Vilella, Crescenzo Rivellini, Paul Rübig, Bart Staes, Georgios Stavrakakis, Michael Theurer, Derek Vaughan |
| Substitute(s) present for the final vote | Amelia Andersdotter, Esther de Lange, Vojtěch Mynář, Markus Pieper |
| Substitute(s) under Rule 187(2) present for the final vote | Fiona Hall, Annette Koewius |