



Plenary sitting

A9-0110/2021

6.4.2021

REPORT

on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019
(2020/2182(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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.....	14
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE	15

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019 (2020/2182(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019,
- having regard to the Court of Auditors' annual report on the EU Joint Undertakings for the financial year 2019, together with the Joint Undertakings' replies¹,
- 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 2019, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 1 March 2021 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2019 (05795/2021 - C9-0029/2021),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Article 106a of the Treaty establishing the European Atomic Energy Community,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012³, and in particular Article 70 thereof,
- having regard to Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it⁴, and in particular Article 5(3) thereof,
- having regard to Articles 32 and 47 of 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

¹ OJ C 380, 11.11.2020, p. 6.

² OJ C 380, 11.11.2020, p. 6.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 90, 30.3.2007, p. 58

Parliament and of the Council⁵,

- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁶,
 - 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 (A9-0110/2021),
1. Grants the Director of the European Joint Undertaking for ITER and the Development of Fusion Energy discharge in respect of the implementation of the Joint Undertaking's budget for the financial year 2019;
 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 Joint Undertaking for ITER and the Development of Fusion Energy, 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).

⁵ OJ L 328, 7.12.2013, p. 42.

⁶ OJ L 122, 10.5.2019, p. 1.

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019 (2020/2182(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019,
- having regard to the Court of Auditors' annual report on the EU Joint Undertakings for the financial year 2019, together with the Joint Undertakings' replies¹,
- 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 2019, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 1 March 2021 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2019 (05795/2021 - C9-0029/2021),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Article 106a of the Treaty establishing the European Atomic Energy Community,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012³, and in particular Article 70 thereof,
- having regard to Council Decision 2007/198/Euratom of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it⁴, and in particular Article 5(3) thereof,
- having regard to Articles 32 and 47 of 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,

¹ OJ C 380, 11.11.2020, p. 6.

² OJ C 380, 11.11.2020, p. 6.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 90, 30.3.2007, p. 58.

⁵ OJ L 328, 7.12.2013, p. 42.

- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁶,
 - 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 (A9-0110/2021),
1. Approves the closure of the accounts of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019;
 2. Instructs its President to forward this decision to the Director of the European Joint Undertaking for ITER and the Development of Fusion Energy, 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).

⁶ OJ L 122, 10.5.2019, p. 1.

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 for the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 2019 (2020/2182(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Joint Undertaking for ITER and the Development of Fusion Energy for the financial year 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 (A9-0110/2021),
- A. whereas the European Joint Undertaking for ITER and the Development of Fusion Energy (the ‘Joint Undertaking’) was established in March 2007 for a period of 35 years by Decision 2007/198/Euratom¹;
- B. whereas the members of the Joint Undertaking are Euratom, represented by the Commission, the member states of Euratom, and third countries which have concluded a cooperation agreement with Euratom in the field of controlled nuclear fusion;
- C. whereas the objectives of the Joint Undertaking are to provide the Union’s contribution to the ITER international fusion energy project, to implement the broader approach agreement between Euratom and Japan, and to prepare for the construction of a demonstration fusion reactor;
- D. whereas the Joint Undertaking started to work autonomously in March 2008;

General

1. 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 annual accounts to present fairly, in all material respects, its financial position at 31 December 2019 and 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 the accounting rules adopted by the Commission’s accounting officer; notes, moreover, that the underlying transactions to the accounts for the financial year 2019 are, in all material respects, legal and regular;
2. Notes from the Court’s report the emphasis of matter drawing attention to the new ITER project baseline approved by the ITER Council in November 2016; notes that the estimate for the achievement of ‘First Plasma’ and the start of the operational phase is in 2025 with the completion of the construction phase in 2035, whereas the 2010 baseline estimated the achievement of the construction phase in 2020 and the new baseline

¹ OJ L 90, 30.3.2007, p. 58

considers it to be at the earliest possible technically achievable date; notes from the Joint Undertaking's progress report to the Council and Parliament that the ITER progress towards First Plasma phase is 67,3 % and that for the ITER construction phase is 53,3 %;

3. Notes with concern that the Joint Undertaking recalculated its contribution to the project construction phase at EUR 12 000 000 000, up from EUR 6 600 000 000 as approved by the Council in 2010 (in 2008 values); notes that this figure does not include contingencies, even though the Commission suggested that a contingency of up to 24 months in terms of schedule and 10 to 20 % in terms of budget would be appropriate; calls on the Joint Undertaking to report to the discharge authority any development in that regard;
4. Notes that in April 2018, the Commission, mandated by Council, approved the new ITER baseline on behalf of Euratom and reaffirmed the commitment to make resources available within the limits of the next multiannual financial framework; notes that the current baseline lasting to 2035 is still in place and will be subject to update in November 2021;
5. Takes note of the fact that some ITER Organization's members' financial contributions are yet to be received; notes that contributions to be received by ITER Organization in 2018 were EUR 119 363 000 and in 2019 they amounted to EUR 166 240 000; calls on the Joint Undertaking to report to the discharge authority developments and a concrete plan of action in that regard;
6. Notes that on 29 December 2020 the UK and Euratom signed a nuclear cooperation agreement according to which the UK is to participate as a member of the Joint Undertaking of ITER and the development of Fusion Energy (F4E) as per the F4E Council Decision, and its statutes; notes that the UK will access Euratom again as an associate member and will keep contributing to F4E and ITER;
7. Is aware of the fact that in addition to the construction phase, the Joint Undertaking will have to contribute to the ITER operational phase after 2035 and to the subsequent ITER deactivation and decommissioning phases as part of the ITER agreement²; notes that the contribution to the deactivation and decommissioning phases were estimated, respectively, at EUR 95 540 000 and EUR 180 200 000 (at 2001 values);
8. Notes with concern that there remains a risk of further cost increases and delays in the implementation of the ITER project; notes that until March/April 2020, the Joint Undertaking was able to maintain the various component delivery dates in line with the schedule to First Plasma at end 2025 despite some delays, but that the COVID-19 pandemic has caused additional risks which are currently under analysis and for which it is unclear if the schedule to First Plasma can be maintained; calls on the Joint Undertaking to report to the discharge authority the result of updating the baseline which is due in November 2021;

Budget and financial management

9. Notes that the final 2019 available budget included commitment appropriations of

² OJ L 358, 16.12.2006, p. 62.

EUR 729 708 445 and payment appropriations of EUR 761 187 699; notes that the utilisation rates for commitment and payment appropriations were 99,8 % and 97,1 % respectively (compared to 98,4 % and 96,1 % in 2018);

10. Notes from the Court's report that in 2019, the budget for Chapter 3.4 – Other Operational Expenditure increased by 85 % to EUR 7 372 404 compared to 2018 and that that budget heading is used for diverse categories of expenditure; notes from the Court's report that to ensure adherence to the budget principles of transparency and specification, a separate budget chapter for each expenditure category should be created: calls on the Joint Undertaking to review its budgetary lines and budget reporting methods and report to the discharge authority developments in that regard;
11. Notes that out of EUR 729 708 445 available for commitment appropriations, 100 % was implemented through direct individual commitments (compared to 98,4 % in 2018) showing an increase of 1,6 %;
12. Notes that, in 2019, the balance of the budget outturn amounted to EUR 824 174 (compared to EUR 1 316 734 in 2018);
13. Notes with great concern that from the Court's report that in one high-value procurement procedure in 2019 the Joint Undertaking's initial published schedules and deadlines were unrealistic as they did not fully take into account the complexity of the process itself (namely, on-site-visits) or of the contract; notes from the Joint Undertaking's reply that the planned procurement schedule was indeed challenging but compliant with the regulatory requirements, and that it undertook every possible step to safeguard fair and transparent competition; notes, furthermore, that the Court's report finds that, with respect to the evaluation process, in one case the administrative burden to prove equivalence to the specific certification, required as part of the selection criteria, may have deterred potential contractors holding equivalent certifications from submitting a tender; notes the Joint Undertaking's reply that the certification requirement was driven by the nuclear regulatory framework for the ITER installation under French law, that it mitigated the effect on competition by allowing equivalent certifications to be used, and that it could not pre-evaluate potentially equivalent certifications; calls on the Joint Undertaking to anticipate and launch its procurement procedure in diligent and realistic manner, to avoid potential overdrafts or delays, as well as loss of funds; calls on the Joint Undertaking to improve its procurement planning process in publishing realistic timeframes from the beginning and its evaluation and negotiation process in defining clearly the scope of negotiation in the tender documents;
14. Notes that the Joint Undertaking has implemented the remedial action to enhance the financial and controlling system aiming to improve transparency, and that the new system was assessed by the Court in its audit process in 2019 which confirmed that the new IT tool is now providing the assurance to manage the mission and assigned the cost of missions to the different budgetary chapter; notes, moreover, from the Joint Undertaking's reply that it will establish a specific budget line hosting the cost of insourced external resources but not for other operational expenditure of an administrative nature under Chapter 3.4 - Other Operational Expenditure, considering it represents a very low amount compared to the scale of operational expenditure;

Performance

15. Notes from the annual assessment that the panel of assessors concluded that the level of nuclear safety culture within the Joint Undertaking is not satisfactory; notes and welcomes the fact that during 2019, the Joint Undertaking issued a new action plan in response to the new internal audit capability's audit report on nuclear safety management and that the audit on neutral beam contracts is now considered to be fully implemented;
16. Notes from the Court's report that in 2019, the Joint Undertaking's governing board appointed an ad-hoc group to review its reporting system, and that the ad-hoc group proposed that a new earned value management (EVM) system should be introduced, as endorsed by the governing board in April 2019; notes with concern, however, that the proposed EVM system does not take into account all the independent experts' recommendations or provide clear information on what technical progress was achieved against costs incurred to-date regarding the total delivery obligations of the Joint Undertaking's for the ITER project; notes from the Court's report that considering the importance of the new EVM system to track performance, it is crucial, that its effectiveness during the implementation phase is monitored by the Joint Undertaking and that the governing board is informed where significant issues emerge; stresses that the EVM system is in line with the requirements of the Joint Undertaking's governing board, which is composed of Member States and which assigned a dedicated working group to design the EVM system according to the special characteristics of the Joint Undertaking; notes from the Joint Undertaking's reply that the EVM is now stable and is the result of extensive interaction with multi-annual planning expert ad-hoc group (the 'Group'); notes the Group's recommendation that textbook EVM measures are not recommended because of the special features of the Joint Undertaking and the amount of effort that would require to implement them, and that the EVM measures should be used to monitor the Joint Undertaking's performance instead; notes, furthermore, that the Joint Undertaking considers that no further action is necessary in that regard, having fully complied with the Group's decisions; welcomes the Joint Undertaking's adoption of a more consistent reporting on project performance through the adoption of a project booklet; calls on the Joint Undertaking to broaden the EVM system with the criteria used to analyse the independent experts' recommendations and guarantee public access to the project booklet;
17. Notes that the Joint Undertaking uses key performance indicators (KPIs) in different projects and programmatic areas as well as technical and non-technical indicators, and that the Joint Undertaking ensures that the baseline is maintained through change control processes together with the ITER Organization; notes that measurable efficiency gains were achieved through improvement projects targeting the time to recruit, the time to procure as well as the signing and paying of contracts; notes that the Joint Undertaking completed four improvement projects on the estimate at completion processes, the tool for contract deviations, document management and reducing schedule delays; invites the Joint Undertaking to take further steps to calibrate its KPIs to best measure both overall delivery and the project-specific objectives' achievement;
18. Notes that governance bodies have closely monitored the progress and performance of the buildings and the vacuum vessel projects, maintaining the buildings project within the set budget and adopting a performance acceleration plan in regard to the vacuum

vessel project; notes furthermore the new contract strategy for the poloidal field coils to enhance the project performance and mitigate risks;

Prevention and management of conflicts of interest and transparency

19. Notes that the Joint Undertaking's updated anti-fraud strategy was adopted by the governing board in late 2019 together with an action plan; notes, moreover that a new business process management policy frame was introduced with a full process mapping and the compilation of a complete portfolio of working procedures; encourages the Joint Undertaking to further strengthen its ethics framework by revising and improving the measures to prevent harassment, fraud and conflicts of interest and to protect whistleblowers;
20. Notes that the European Anti-Fraud Office and the ethics officer coordinated and drafted the Joint Undertaking's anti-fraud strategy, including its action plan for 2020 to 2023 seeking enforcement of the management of conflicts of interest in particular with regard to the selection of staff and the phase of contract implementation, and payments and that that was adopted by the governing board at the end of 2019; notes that concerning declarations of interest, new actions for 2020 to 2023 have been elaborated on the basis of a comprehensive risk assessment done by the risk officer together with the ethics officer;
21. Notes that in line with the anti-fraud policies adopted, the Joint Undertaking has published the CVs and declarations of interest of the members of its governing board; welcomes the publication of the declarations of interest of the members of the Joint Undertaking's governing board; some of declarations have the possibility to be edited online, including the name; calls for the updating the declarations to correct this issue;

Staff and recruitment

22. notes from the Court's report that the focus areas of the 2019 assessment by the external expert panel included human resource management and that it identified several problems and risks at senior management and corporate culture level; notes from the Court's report that this situation, if unresolved, could negatively affect the performance of the Joint Undertaking's staff; notes from the Joint Undertaking's reply that its management is taking action by introducing a comprehensive leadership development programme, including coaching and 360° feedback, among other measures recommended by the assessors; urges the Joint Undertaking to diligently adopt and comply with the recommendation and to avoid compromising the Joint Undertaking's performance and the wellbeing of its employees ;
23. Notes from the Court's report that due to the restriction of the establishment plan in terms of statutory staff, the Joint Undertaking increasingly uses contracted or insourced resources, including for positions that are considered to be the Joint Undertaking's core competencies and responsibilities (such as the nuclear safety unit), already reaching in 2019 the level of approximately 62 % of its statutory staff; notes from the Court's report that the Joint Undertaking's human resource management does not have up-to-date information on the size of those resources, as its management is decentralised at unit or directorate level, and that this situation presents significant risks concerning the retention of key competencies, unclear accountability, possible judicial disputes, and lower staff efficiency; notes, moreover, that the costs for the insourced staff are charged

to Chapter 3.4 – Other Operational Expenditure, together with various other operational costs, which is contrary to the budget principle of specification and transparency; notes the Joint Undertaking’s reply that a breakdown of the Chapter 3.4 with the creation of a specific budget line hosting the cost of insourced external resources will be established from the 2021 budget onwards; calls on the Joint Undertaking to review and adequately adapt its human resources policies, recruitment procedures and staff and budget estimates; calls on the Joint Undertaking to immediately report any identified potential difficulties to the Commission and the European Personnel Selection Office in order to remedy the situation and avoid understaffing and backlogs; stresses that the Joint Undertaking must consider potential security and reputational risks that excessive outsourcing and use of external providers may bring;

24. Notes from the Joint Undertaking’s reply that the budgetary caps on statutory staff provided for in the establishment plan fall well below the needs of the ITER project, and that the various actions provided for under this risk management programme launched in April 2020 tackle the issues mentioned by the Court and provide safeguards; notes, moreover, that the cost-benefit analysis and benchmarking requested by the administration and management committee for November 2020 will also allow discussion on the Joint Undertaking’s reliance on external resources and statutory requirements; notes, furthermore, that the Joint Undertaking has taken measures to improve staff selection procedures by enhancing compliance and quality of recruitments and reducing administrative burden and lead-time, and that those measures have been consolidated in the revised internal and external selections standard operating procedures adopted in January 2020;
25. Notes that the Joint Undertaking established and adopted its own health and safety management system in 2019 to safeguard occupational health derived from the Council Directive 89/391/EEC³;

Internal Control

26. Welcomes the fact that the Joint Undertaking’s governing board adopted in 2019 an update of its internal control strategy, which aims to provide reasonable assurance to the F4E director and external stakeholders on the state of Joint Undertaking’s internal control, and that it is structured along the three main lines of defence of the institute of internal auditors and combines the ITER-wide quality system and the Commission internal control framework (ICF); notes that the Joint Undertaking has a system to manage risks at corporate and project level based on its integrated management system and the management and internal control standards; notes that the overall assessment of the integrated management system concluded that the system is effective overall with some improvements needed; notes that the improvement of the (ICF) depends on the clarity of the key performance indicators used to monitor the effectiveness of the established control activities; notes the fact that most of the Joint Undertakings adopted the Commission’s new ICF;
27. Notes that, during 2019, the Joint Undertaking closed two *ex-post* audits on grants and that two others remain on-going; notes that the grants account for a minimum portion of the operational budget and that in 2019, the Joint Undertaking’s commitments on grants

³ Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

represented only 0,13 % of the total operational commitment appropriations; calls on the Joint Undertaking to organise *ex-post* audits on the use of more significant budgetary means;

28. Notes the Joint Undertaking's reply that it agrees on the importance of effective communications and that it has a clearly defined external communication policy, setting out key priorities, objectives, and expected outcomes;

Operational procurement and grants

29. Notes that during 2019, 43 operational procurement procedures were launched, 74 operational procurement contracts were awarded and 75 were signed.

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	22.3.2021
Result of final vote	+: 27 -: 3 0: 0
Members present for the final vote	Matteo Adinolfi, Olivier Chastel, Caterina Chinnici, Lefteris Christoforou, Corina Crețu, Ryszard Czarnecki, Martina Dlabajová, José Manuel Fernandes, Raffaele Fitto, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Pierre Karleskind, Joachim Kuhs, Ryszard Antoni Legutko, Claudiu Manda, Alin Mituța, Younous Omarjee, Tsvetelina Penkova, Markus Pieper, Sabrina Pignedoli, Michèle Rivasi, Petri Sarvamaa, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
Substitutes present for the final vote	Andrey Novakov, Viola Von Cramon-Taubadel

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

27	+
ECR	Ryszard Czarnecki, Raffaele Fitto, Ryszard Antoni Legutko
ID	Jean-François Jalkh
PPE	Lefteris Christoforou, José Manuel Fernandes, Monika Hohlmeier, Andrey Novakov, Markus Pieper, Petri Sarvamaa, Angelika Winzig, Tomáš Zdechovský
Renew	Olivier Chastel, Martina Dlabajová, Pierre Karleskind, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Claudiu Manda, Tsvetelina Penkova, Lara Wolters
The Left	Luke Ming Flanagan, Younous Omarjee
Verts/ALE	Daniel Freund, Michèle Rivasi, Viola Von Cramon-Taubadel

3	-
ID	Matteo Adinolfi, Joachim Kuhs
NI	Sabrina Pignedoli

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention