



Plenary sitting

A9-0082/2023

27.3.2023

REPORT

on discharge in respect of the implementation of the budget of the Key Digital Technologies Joint Undertaking (before 30.11.2021 the ECSEL Joint Undertaking) for the financial year 2021
(2022/2127(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on discharge in respect of the implementation of the budget of the Key Digital Technologies Joint Undertaking (before 30.11.2021 the ECSEL Joint Undertaking) for the financial year 2021
(2022/2127(DEC))**

The European Parliament,

- having regard to the final annual accounts of the Key Digital Technologies Joint Undertaking for the financial year 2021,
- having regard to the Court of Auditors' annual report on the EU Joint Undertakings for the financial year 2021, 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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2021 (06252/2023 – C9-0109/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- 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 71 thereof,
- having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking⁴, and in particular Article 12 thereof,
- having regard to 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 642/2014⁵, and in particular Article 26 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/887 of 13 March 2019

¹ OJ C 433, 15.11.2022, p. 52.

² OJ C 433, 15.11.2022, p. 52.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 169, 7.6.2014, p. 152.

⁵ OJ L 427, 30.11.2021, p. 17.

on the model financial regulation for public-private partnership bodies referred to in Article 71 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 (A9-0082/2023),
1. Grants the Executive Director of the Key Digital Technologies Joint Undertaking discharge in respect of the implementation of the Joint Undertaking's budget for the financial year 2021;
 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 Executive Director of the Key Digital Technologies 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).

⁶ OJ L 142, 29.5.2019, p. 16.

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the Key Digital Technologies Joint Undertaking (before 30.11.2021 the ECSEL Joint Undertaking) for the financial year 2021 (2022/2127(DEC))

The European Parliament,

- having regard to the final annual accounts of the Key Digital Technologies Joint Undertaking for the financial year 2021,
- having regard to the Court of Auditors' annual report on the EU Joint Undertakings for the financial year 2021, 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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2021 (06252/2023 – C9-0109/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- 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 71 thereof,
- having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking⁴, and in particular Article 12 thereof,
- having regard to 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 642/2014⁵, and in particular Article 26 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/887 of 13 March 2019 on the model financial regulation for public-private partnership bodies referred to in Article 71 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of

¹ OJ C 433, 15.11.2022, p. 52.

² OJ C 433, 15.11.2022, p. 52.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 169, 7.6.2014, p. 152.

⁵ OJ L 427, 30.11.2021, p. 17.

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 (A9-0082/2023),
1. Approves the closure of the accounts of the Key Digital Technologies Joint Undertaking for the financial year 2021;
 2. Instructs its President to forward this decision to the Executive Director of the Key Digital Technologies 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).

⁶ OJ L 142, 29.5.2019, p. 16.

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 Key Digital Technologies Joint Undertaking (before 30.11.2021 the ECSEL Joint Undertaking) for the financial year 2021 (2022/2127(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the Key Digital Technologies 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 (A9-0082/2023),
- A. whereas the Electronic Components and Systems for European Leadership Joint Undertaking (ECSEL), was established under the Horizon 2020 programme on 6 May 2014 by Regulation (EU) No 561/2014¹, which entered into force on 27 June, for a period until 31 December 2024; whereas ECSEL replaced and succeeded the ENIAC Joint Undertaking (ENIAC) and the ARTEMIS Joint Undertaking (ARTEMIS), which were wound up on 26 June 2014; whereas in November 2021, the Key Digital Technologies Joint Undertaking (the ‘KDT Joint Undertaking’) was established under the Horizon Europe programme by Regulation (EU) 2021/2085² to replace ECSEL, for the period ending on 31 December 2031;
- B. whereas the KDT Joint Undertaking is a public-private partnership managing a research and innovation programme aiming to reinforce the Unions strategic autonomy in the electronic components and systems sector; whereas the KDT Joint Undertaking should address clearly defined topics that would enable Union industries at large to design, manufacture and use the most innovative technologies in electronic components and systems;
- C. whereas the members of the KDT Joint Undertaking are the Union, represented by the Commission, the Participating States, and three industry associations, namely the European Association on Smart System Integration, the Association for European Nano Electronics Activities, and the Inside Industry Association, representing stakeholders in microelectronics and nanoelectronics, smart integrated systems and embedded/cyber-physical systems;
- D. whereas the Union financial contribution to the KDT Joint Undertaking, including EEA appropriations, to cover administrative costs and operational costs is up to EUR 1,8 billion, including up to EUR 26 331 million for administrative costs; whereas the private members of the KDT Joint Undertaking are to make or arrange for their constituent or

¹ Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking (OJ L 169, 7.6.2014, p. 152).

² 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).

affiliated entities to make contributions of at least EUR 2,5billion to the KDT Joint Undertaking; whereas the private members are to make or arrange for their constituent and affiliated entities to make a financial contribution of up to EUR 26 331 million for administrative costs of the KDT Joint Undertaking for the 10-year period;

General

1. Welcomes the Council general approach on the proposal for a Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (the 'Chips Act ');
2. Acknowledges that Horizon Europe programme envisages ambitious goals for the KDT 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 on the KDT Joint Undertaking to explore the possibilities of simplifications wherever possible and that are compatible with the existing legal framework;
3. Notes that there is no harmonised definition of administrative costs among the joint undertakings that is a basis for calculating the financial contributions of its members and a precondition for comparability; 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;

Budgetary and financial management

4. Welcomes the fact that the annual accounts of the KDT Joint Undertaking present fairly, in all material respects, the financial position of the KDT Joint Undertaking on 31 December 2021, the results of its operations, its cash flows and the changes in net assets for that year, 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;
5. Notes that the KDT Joint Undertaking's total available budget for the year 2021, which includes re-entered unused appropriations of previous years, assigned revenues and reallocations to the following year, included EUR 218,3 million for commitment and EUR 199,3 million for payment appropriations, and that the implementation rate was 99,4 % (compared to 99,59 % in 2020) for commitment appropriations and 84 % (compared to 88,63 % in 2020) for payment appropriations;
6. Notes from the report of the Court of Auditors (the 'Court's report') that, at the end of 2021, the KDT Joint Undertaking financially closed the on-going Seventh Framework Programme for Research projects; notes that, based on the total costs of signed Seventh Framework Programme for Research activities and the actual payments made by the KDT Joint Undertaking and the predecessors of the KDT Joint Undertaking, namely, ENIAC, ARTEMIS and ECSEL, for the co-financing of these activities, the final contributions of the members are estimated at EUR 564,3 million for the Union, at EUR 812,5 million for

Participating States and at EUR 2 202,4 million in-kind contributions for private members;

7. Notes that, at the end of 2021, the KDT Joint Undertaking had fully committed EUR 1 170 million of the maximum EU contribution for signed Horizon 2020 grant agreements; notes that of this amount, around EUR 190,3 million (16,6 %) remains to be paid in the coming years;
8. Notes the 85 % implementation rate for the KDT Joint Undertaking's 2021 payment budget available for Horizon 2020 projects; notes that the KDT Joint Undertaking had almost no 2021 operational commitment appropriations as it finished its last call for proposal by the end of 2020;
9. Notes from the Court's report that, at the end of 2021, the private's member's potential final in-kind contributions for operational Horizon 2020 activities were estimated at EUR 1 594,2 million; notes that the KDT Joint Undertaking can calculate and validate only the actual amount of the private members' in-kind contributions once all payments have been made by both the KDT Joint Undertaking and the Participating States and all end-of-project certificates and related information have been received; notes, in this context and given that at the end of 2021 only a limited number of Horizon 2020 projects had been finalised, that the validated industry in-kind contributions amounted to EUR 300,6 million; notes that at the end of 2021, the cumulative estimated and (not yet validated) in-kind contributions from private members amounted to EUR 968,2 million, based on a *pro-rata temporis* methodology adopted by the KDT Joint Undertaking's Governing Board;
10. Notes that at the end of 2021, the Participating States signed contractual commitments amounting to EUR 1 106,2 million and declared total financial contributions of EUR 450,2 million, which they paid directly to the national beneficiaries of the Horizon 2020 projects they supported; notes that the difference between the amount of Participating States' financial contribution and the Union's financial contribution of EUR 1 058 million. EUR 1 million at the end of 2021 is due to the fact that most Participating States only recognise and report their costs to the KDT Joint Undertaking on completion of the Horizon 2020 projects they support;

Procurement and staff

11. Notes that procurement and contracts are managed in accordance with the provisions of the KDT Joint Undertaking's financial regulation and coordinated within the KDT Joint Undertaking's Administration & Finance team;
12. Notes that the KDT Joint Undertaking, in order to reach its objectives and adequately support its operations and infrastructure, allocated funds to procure the necessary services and supplies; notes that in the context of sound financial management and efficiency, the KDT Joint Undertaking made to the largest possible extent use of the various Service Level Agreements already concluded with relevant Commission services, as well as its private members and made use of inter-institutional framework contracts (for example, IT services and equipment, interim staff services, external audit services); notes that given the sanitary context due to the COVID-19 pandemic and the restrictions imposed, substantially all meetings and events were held remotely and only a very few missions took place in the last quarter of 2021 and as a result, in 2021, the KDT Joint Undertaking

ran very few procurement procedures, essentially for low value contracts;

13. Notes that in May 2021, two negotiated procedures for very low value were launched for the award of two contracts for the logistical support and the creation of videos in the context of the organisation of the digital version of “ECSEL Joint Undertaking Symposium 2021” and in September 2021, ECSEL launched a negotiated procedure for a low value contract related to the organisation of a high-level seminar;
14. Notes from the Court’s report that, on 31 December 2021, the KDT Joint Undertaking employed 29 staff, which included temporary agents, contract agents and seconded national experts; notes, from the annual activity report that, in 2021, ECSEL recruited two contractual agents for the posts of financial/administrative assistant (left vacant after former staff departures); notes that the recruitment was finalised in the fourth quarter of 2021; notes that two temporary agents went on retirement and that one has already been successfully replaced;
15. Notes with concern that during the period from 2018 to 2021 the average annual rate of interim staff for all joint undertakings remained high at around 11 % of statutory staff; recalls that the high ratio of contractual staff tends to increase significantly the KDT Joint Undertaking’s staff turnover rate and further destabilises the staffing situation; emphasises, moreover, that the use of interim staff should remain a temporary solution or it could negatively affect the Joint Undertaking’s overall performance, such as the retention of key competences, unclear accountability channels, possible judicial disputes and lower staff efficiency;
16. Notes from the Court’s report that with the Commission’s proposal³ to amend Regulation (EU) 2021/2085, the KDT Joint Undertaking will be transformed into the future Chips Joint Undertaking, with a new remit related to the implementation of the “Chips for Europe Initiative” under the Multiannual Financial Framework (MFF) 2021-2027; welcomes, in this context, that the KDT Joint Undertaking will support the development of innovative next-generation semiconductor technologies that should reinforce the Union’s chip-production capability; notes that, according to this proposal, the KDT Joint Undertaking will implement projects of about EUR 10,9 billion under the MFF 2021-2027 and should recruit an additional 19 members of staff to achieve the planned 50 statutory staff by 2025; is concerned that, as the KDT Joint Undertaking had only 29 members of staff (13 temporary members of staff and 16 contractual members of staff) at the end of 2021, it may face considerable human resources challenges in managing these new recruitments, in addition to the new administrative and operational processes yet to be established;
17. Notes that based on the 2021 annual activity report, in terms of gender balance, that the number of female experts for reviews in the KDT Joint Undertaking increased compared to the previous year, both in percentage and absolute figures; regrets that the percentage rate with 19,4 % is still low and calls for increased efforts in terms of gender balance;
18. Notes that the part of the employers’ contributions for the staff of the joint undertakings corresponding to the ratio of their third-country subsidised revenues to their total

³ Proposal for a Council Regulation amending Regulation (EU) 2021/2085 establishing the Joint Undertakings under Horizon Europe, as regards the Chips Joint Undertaking, COM(2022) 47 final of 8.2.2022.

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 on the Commission to take steps to avoid similar issues in the future;

Internal controls

19. Notes from the Court's report that administrative agreements concluded by ENIAC and ARTEMIS with the National Funding Authorities (NFAs) continue to apply following their merger to form ECSEL; notes that, under those agreements, ENIAC's and ARTEMIS's *ex-post* audit strategies relied heavily on the NFAs to audit project cost claims; regrets that the significant variation in the methodologies and procedures used by the NFAs does not allow the ECSEL Joint Undertaking to calculate a single reliable weighted error rate or a residual error rate for the Seventh Framework Programme for Research payments and that as ECSEL's total payments in 2021 to close the remaining Seventh Framework Programme for Research projects only amounted to EUR 0,6 million, or 0,4% of the total operational payments, they did not represent a risk of material errors in 2021;
20. Notes, from the annual activity report, that for Horizon 2020 payments, the common audit service of the Commission's Directorate-General for Research and Innovation carries out the *ex-post* audits; deplores that based on its audit results at the end of 2021, the KDT Joint Undertaking reported a representative error rate for Horizon 2020 of 2,2 % (compared to 2,68 % in 2020) and a residual error rate of 1,2 % (compared to 1,25 % in 2020);
21. Notes that, to assess the operational payment controls of the KDT 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 that, in two cases, the Court found and quantified errors resulting from personnel costs having been over claimed;
22. Emphasises that the Court's findings confirmed persistent systemic errors for declared personnel costs and that in particular, small and medium-sized enterprises (SMEs) and new beneficiaries are more error-prone than other beneficiaries, highlights that these errors are also regularly reported in Court's previous annual reports since 2017; emphasises therefore 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; emphasises that KDT Joint Undertaking should strengthen its internal control systems to address the increased risk regarding SMEs and new beneficiaries and strongly encourage the use of the Personnel Costs Wizard by certain categories of beneficiaries that are more prone to errors, such as SMEs and new beneficiaries; welcomes 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;
23. Notes from the annual activity report that, in 2021, ECSEL has assessed the effectiveness

of its internal control systems based on the revised framework; notes that the overall objective of the self-assessment exercise was to understand if all principles were present and functioning; notes that the exercise was based mainly on the self-assessment of monitoring indicators and analysis of reports by the internal audit service, the Court and external auditors and supported with other evidence, such as the register of exceptions, the risk assessment exercise, follow up of actions, recommendations, findings, and discussions with management on the activities and objectives of ECSEL;

24. Welcomes the fact that ECSEL has assessed the internal control system during the reporting year and has concluded that it is effective and that the components and principles are present and functioning as intended;

Internal audit

25. Notes that the Commission's internal audit service performs the role of internal auditor of the KDT Joint Undertaking, as specified in Article 28 of the its financial regulation; notes that in October 2021, the ECSEL Executive Director informed the internal auditors on the latest important developments at ECSEL and the results of the latest risk assessment exercise;

The new centralised system to manage Participating States' financial contributions

26. Notes from the Court's report, that, based on the Horizon Europe Framework Regulation and Regulation (EU) 2021/2085, the KDT Joint Undertaking is obliged to introduce a new centralised management process, the Central Management of Financial Contributions (CMFC) system, to manage the financial contributions of its Participating States;
27. Notes that under the planned CMFC system, each Participating State can opt to pay to the KDT Joint Undertaking its respective financial contributions at project level for beneficiaries established in its state; notes that during this process, each Participating State also has a right of veto on all issues concerning the use of its own national financial contributions, paid to the KDT Joint Undertaking for applicants established in its state, in line with Union's financial and competition rules; notes that this allows a Participating State to decide, on the basis of national strategic priorities, whether or not to support a national beneficiary of a selected and approved research and innovation project;
28. Notes, in addition, that the KDT Joint Undertaking will have to execute the co-financing payments for all Participating States that choose to entrust the KDT Joint Undertaking with their financial contributions; notes that it will have to manage and monitor two alternative processes of supporting administrative agreements with Participating States; notes that each Participating State's NFA has to sign an administrative agreement with the KDT Joint Undertaking, to either entrust it with the payment of national contributions, or to coordinate national transfer of funds agreements for the payments to beneficiaries and reporting on contributions;
29. Notes the Court's concern with the fact that the KDT Joint Undertaking's additional resource needs for implementing the planned CMFC system was neither assessed by the Commission nor included in the KDT Joint Undertaking's initial staff resource estimates for the implementation of the Horizon Europe programme; agrees with the Court that this lack of planning in the introduction of the CMFC system combined with the staff

situation, and the lack of IT tools and support may negatively affect the implementation of the KDT Joint Undertaking's programmes and the achievement of the other members' contributions and that if the CMFC must be managed manually, this will be human resource intensive; calls on the KDT Joint undertaking and Commission to report back to the discharge authority on further developments;

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	28.2.2023
Result of final vote	+: 25 -: 1 0: 0
Members present for the final vote	Gilles Boyer, Olivier Chastel, Caterina Chinnici, Corina Crețu, Ryszard Czarnecki, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Mislav Kolakušić, Joachim Kuhs, Alin Mituța, Jan Olbrycht, Markus Pieper, Michèle Rivasi, Sándor Rónai, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
Substitutes present for the final vote	Elżbieta Rafalska
Substitutes under Rule 209(7) present for the final vote	Fabienne Keller, Katrin Langensiepen

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

25	+
ECR	Ryszard Czarnecki, Elżbieta Rafalska
ID	Jean-François Jalkh
NI	Mislav Kolakušić
PPE	José Manuel Fernandes, Monika Hohlmeier, Jan Olbrycht, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Tomáš Zdechovský
Renew	Gilles Boyer, Olivier Chastel, Fabienne Keller, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Sándor Rónai, Lara Wolters
The Left	Luke Ming Flanagan
Verts/ALE	Daniel Freund, Katrin Langensiepen, Michèle Rivasi

1	-
ID	Joachim Kuhs

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention