



TEXTS ADOPTED

P9_TA(2022)0191

Discharge 2020: Fuel Cells and Hydrogen 2 Joint Undertaking

1. European Parliament decision of 4 May 2022 on discharge in respect of the implementation of the budget of the Fuel Cells and Hydrogen 2 Joint Undertaking (now the Clean Hydrogen Joint Undertaking) for the financial year 2020 (2021/2153(DEC))

The European Parliament,

- having regard to the final annual accounts of the Fuel Cells and Hydrogen 2 Joint Undertaking for the financial year 2020,
- having regard to the Court of Auditors' annual report on the EU Joint Undertakings for the financial year 2020, 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 2020, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2022 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2020 (06005/2022 – C9-0109/2022),
- 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 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking⁴, and in particular Article 12 thereof,

¹ OJ C 458, 12.11.2021, p. 20.

² OJ C 458, 12.11.2021, p. 20.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 169, 7.6.2014, p. 108.

- 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 642/2014¹, and in particular Article 26 thereof,
 - having regard to Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council²,
 - 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 the Council³,
 - 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 (A9-0075/2022),
1. Grants the Executive Director of the Clean Hydrogen Joint Undertaking discharge in respect of the implementation of the Joint Undertaking's budget for the financial year 2020;
 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 Clean Hydrogen 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).

¹ OJ L 427, 30.11.2021, p. 17.

² OJ L 38, 7.2.2014, p. 2.

³ OJ L 142, 29.5.2019, p. 16.

2. European Parliament decision of 4 May 2022 on the closure of the accounts of the Fuel Cells and Hydrogen 2 Joint Undertaking (now the Clean Hydrogen Joint Undertaking) for the financial year 2020 (2021/2153(DEC))

The European Parliament,

- having regard to the final annual accounts of the Fuel Cells and Hydrogen 2 Joint Undertaking for the financial year 2020,
- having regard to the Court of Auditors' annual report on the EU Joint Undertakings for the financial year 2020, 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 2020, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2022 on discharge to be given to the Joint Undertaking in respect of the implementation of the budget for the financial year 2020 (06005/2022 – C9-0109/2022),
- 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 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 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 Europe⁵ 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, and in particular Article 26 thereof,
- having regard to Commission Delegated Regulation (EU) No 110/2014 of 30 September 2013 on the model financial regulation for public-private partnership bodies referred to in Article 209 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁶,
- 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

¹ OJ C 458, 12.11.2021, p. 20.

² OJ C 458, 12.11.2021, p. 20.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 169, 7.6.2014, p. 108.

⁵ OJ L 427, 30.11.2021, p. 17.

⁶ OJ L 38, 7.2.2014, p. 2.

71 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council¹,

- 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 (A9-0075/2022),
1. Approves the closure of the accounts of the Fuel Cells and Hydrogen 2 Joint Undertaking for the financial year 2020;
 2. Instructs its President to forward this decision to the Executive Director of the Clean Hydrogen 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).

¹ OJ L 142, 29.5.2019, p. 16.

3. European Parliament resolution of 4 May 2022 with observations forming an integral part of the decision on discharge in respect of the implementation of the budget for the Fuel Cells and Hydrogen 2 Joint Undertaking (now the Clean Hydrogen Joint Undertaking) for the financial year 2020 (2021/2153(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the Fuel Cells and Hydrogen 2 Joint Undertaking for the financial year 2020,
 - 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 (A9-0075/2022),
- A. whereas the Fuel Cells and Hydrogen Joint Undertaking (the ‘FCH’) was set up in May 2008 as a public-private partnership by Council Regulation (EC) No 521/2008¹ for a period until 31 December 2017 to increase research efforts and accelerate the deployment of fuel cells and hydrogen technologies; whereas Regulation (EC) No 521/2008 was repealed by Council Regulation (EU) No 559/2014²;
- B. whereas Regulation (EU) No 559/2014 established the Fuel Cells and Hydrogen 2 Joint Undertaking (the ‘FCH2’) in May 2014 to replace and succeed the FCH for a period until 31 December 2024;
- C. whereas the members of the FCH were the Union, represented by the Commission, the Fuel Cell and Hydrogen Joint Technology Initiative Industry Grouping, and the Research Grouping N.ERGHY;
- D. whereas the members of the FCH2 are the Union, represented by the Commission, the New Energy World Industry Grouping AISBL (the ‘Industry Grouping’), renamed Hydrogen Europe in 2016, and the New European Research Grouping on Fuel Cells and Hydrogen AISBL (the ‘Research Grouping’), renamed Hydrogen Europe Research in 2018;
- E. whereas the maximum Union contribution in the FCH covering running costs and operational costs is EUR 470 000 000 from the Seventh Framework programme; whereas the contributions from the other members must be at least equal to the Union contribution;
- F. whereas the maximum Union contribution to the FCH2 is EUR 665 000 000 (including EFTA appropriations) from the Horizon 2020 and the members of the Industry and Research Groupings are expected to contribute total resources of at least EUR 380 000 000 over the period defined by Regulation, comprising in-kind contributions in the Horizon 2020 projects funded by the FCH2, in-kind contributions to additional activities of at least EUR 285 000 000, and in cash-contributions to administrative costs;

¹ Council Regulation (EC) No 521/2008 of 30 May 2008 setting up the Fuel Cells and Hydrogen Joint Undertaking (OJ L 153, 12.6.2008, p. 1).

² Council Regulation (EU) No 559/2014 of 6 May 2014 establishing the Fuel Cells and Hydrogen 2 Joint Undertaking (OJ L 169, 7.6.2014, p. 108).

Budget and financial management

1. Notes that the report of the Court of Auditors (the ‘Court’) on the annual accounts of the FCH2 (the ‘Court’s report’) finds the 2020 annual accounts to present fairly, in all material respects, the financial position of the FCH2 at 31 December 2020, 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 accounting rules adopted by the Commission’s accounting officer; notes furthermore from the Court’s report that the underlying transactions to the accounts are legal and regular in all material respects;
2. Notes that the FCH2’s final available budget, which includes re-entered unused appropriations of previous years, assigned revenues and reallocations to the following year, for the financial year 2020 included commitment appropriations of EUR 104 231 642 and payment appropriations of EUR 103 779 004; notes that the overall 2020 budget execution of commitment and payment appropriations reached 94,4 % and 95,3 % respectively;
3. Notes that at the end of 2020 out of the maximum contribution of EUR 470 000 000 as per Regulation (EC) No 521/2008, the Union contributed a total of EUR 426 127 000 in cash and in-kind from the Seventh Framework programme and the members from the Industry Grouping and the Research Grouping contributed a total of validated resources of EUR 458 275 000, comprising EUR 440 391 000 in-kind validated contributions in the Seventh Framework projects; notes from the Court’s report that for the whole Seventh Framework programme, at the end of 2020, the FCH2 had committed EUR 428 477 494 for signed Seventh Framework grant agreements, of which around EUR 7 062 748 (or 2 %) remain to be paid in the coming years, and that regarding the FCH2’s 2020 payment budget available for Seventh Framework projects, the implementation rate for payment appropriations was 89 %;
4. Notes that at the end of 2020 the Union contributed a total of EUR 498 577 000 from Horizon 2020 and the members from the Industry Grouping and Research Grouping together contributed a total of EUR 20 630 000 in validated in-kind contributions, comprising EUR 11 916 000 in-kind validated contributions in the FCH2’s Horizon 2020 projects; notes from the Court’s report that the low level of validated industry members’ in-kind contributions for operational activities of EUR 11 916 000, is due to the fact that the FCH2 certifies them later in the Horizon 2020 programme, when the final payment for the projects is made and the certificates of financial statement are due; notes additionally that the Industry Grouping and Research Grouping together contributed a total of EUR 1 095 070 000 in kind to additional activities as at the end of 2020, significantly more than the minimum EUR 285 000 000 set in the FCH2 founding regulation for the entire duration of Horizon 2020; notes that there are different procedures across Joint Undertakings regarding the calculation for the in-kind contributions and calls for their harmonisation;
5. Notes that, according to the Court’s report the FCH2’s practice of reactivating unused payment appropriations from previous years to the extent of open administrative commitments, results in an accumulation of unused payment appropriations and that, aggravated by the impact of the COVID-19 pandemic, this practice resulted in a low budget implementation rate for the FCH2 administrative budget (Title 2) infrastructure and communication expenditure representing around 3 % of the FCH2’s total available payment budget, which was 56 % at the end of 2020; notes the FCH2 reply that the

administrative budget showed a consistent high implementation rate between 75 % and 80 % for the previous four years, and that in 2020, however, the situation was different due to the significant impact of the COVID-19 pandemic and that cancellation of planned activities of up to 13 % of Title 2 payment appropriations could not be known to their full extent before the end of the year; calls on the FCH2 to develop a plan to limit the reactivation of the unused payment appropriations as a way to prevent low budget implementation rate;

6. Notes that the implementation rate of the budget available for Horizon 2020 projects for commitments and payments appropriations was 97 % in each case;

Procurement and staff

7. Notes that, according to the Court's report in April 2020 the FCH2 launched an open procurement procedure for a framework contract related to the implementation of third phase of the project to develop a H2 certification scheme for compliance with the revised renewable energy directive (REDII) and that, although the consortium that had already implemented the first two phases of the project was in a situation of a knowledge advantage, the FCH2 used the open procurement procedure for implementing the third phase of the project, and as a result a consortium with the same coordinator who already had implemented the previous two phases was the only candidate that submitted a tender, and made a financial offer close to the maximum estimated contract value fixed in the tender specifications; calls on the FCH2 to report to the discharge authority on that regard;
8. Notes that, according to the Court's report, due to the use of an open procurement procedure in a situation of knowledge advantage, the best price-quality ratio objective could not be fully demonstrated and that to increase competition and to allow a better estimation of price from the market the FCH2 is encouraged to carry out preliminary market research on price and consultation with other companies acting in the hydrogen market; notes the FCH2 reply that it exercised an internal market research combined with the use of historical financial data in order to establish an appropriate contract value, and that in future, the FCH2 will complement the internal research with a more detailed external market research to find the most accurate market price for the contract;
9. Notes that the FCH2 maintained the position of "Service knowledge management" with constant assignments to interim staff for a period of around 2.5 years due to the request of the FCH2 governing board to enhance the role of knowledge management and that, according to the Commission's framework contract for interim services the use of interim staff, however, is limited to office work of a one-off or temporary nature, arising from an exceptional increase in workload and/or the performance of a one-off activity, or to fill a vacant post pending the recruitment of a permanent staff member and that that FCH2 practice is against this principle and in fact creates a permanent post, in addition to those foreseen in the staff establishment plans; notes the FCH2's reply that the interim staff was needed to face the turnover for the post of knowledge management officer between the years 2015 to 2020 and which explains partly the need for interim staff to ensure continuity of the service, and that furthermore, the FCH2 could only ensure the consequent increased workload with interim staff, following the special request of its governing board; emphasises however that the use of interim staff should remain a temporary solution otherwise it could negatively affect the FCH2's overall performance, such as the retention of key competences, unclear accountability channels, and lower staff

efficiency; calls on the FCH2 to report to the discharge authority any development in that regard;

10. Notes that the FCH2 used the eProcurement solution for open procurement procedures in 2020 and that in addition, in 2020, FCH 2 migrated to EU Sign;
11. Notes that at the end of 2020, according to its annual activity report, the FCH2 had 27 members of staff (respectively 24 temporary agents, 3 contract agents) and two seconded national experts from 10 Member States and is pleased to note that there is gender balance among staff (56 % men and 44 % women); welcomes this very good initiative and encourages the FCH2 to continue to maintain this gender balance;
12. Notes with concern the challenges associated with the COVID-19 pandemic for employees, especially taking into account different living situations, lack of access to office space and possible effects of isolation; asks the FCH2 to focus on employee wellbeing, stress management and work and life balance; asks the FCH2's management to ensure there are appropriate support structures in place to ensure the psychological well-being of staff;

Performance

13. Notes that 2020 was a key year for the FCH2 in the context of the Commission's adoption on 8 July of the Union's Hydrogen Strategy in line with the NextGenerationEU recovery package and the European Green Deal and that that was marked by the first European Hydrogen Week; notes that in 2020 the FCH2 published one call for proposals covering 24 topics and that it received 71 proposals and that following that 22 of the 23 grant agreements were signed in 2020; notes that in 2020 the FCH2 launched three call for tenders and contracted three studies, one jointly with Clean Sky2 Joint Undertaking on the use of hydrogen and fuel cells for aircraft propulsion;
14. Notes that by the end of 2020 the FCH 2's global portfolio was 131 projects signed under the Horizon 2020 programme of which 26 were closed and 105 open; notes that the FCH2 is actively part of the C-lead Mission Innovation initiative on a Hydrogen Valley Platform; takes note that in 2020 the public launch of the Fuel Cells and Hydrogen Observatory took place in collaboration with DG R&I, which is expected to be an important tool for all policymakers and other stakeholders;
15. Notes that the value of leverage effect as at 31 December 2020 was 2, 34 taking into consideration all private partners contributions, and 1, 69 taking into account only Members of Hydrogen Europe Industry and Hydrogen Europe Research;
16. Notes that in 2020 synergies were further developed both with regions, joint undertakings and other agencies, such as the Clean Sky 2 Joint Undertaking, the Executive Agency for Small and Medium-sized Enterprises and the Innovation and Networks Executive Agency; notes that, as part of the Regions Initiative the pilot Project Development Assistance entered in force in June 2020 supporting 11 public regional and local authorities to develop their concepts for regional FCH2 projects into detailed work plans; notes that the hydrogen valleys and ecosystems were developed under the FCH 2 supported project BIG HIT, in particular the Hydrogen Territories Platform was launched; notes moreover other projects such as HEAVENN, which started in 2020;

17. Notes that the FCH2 uses Horizon 2020 common Key Performance Indicators (KPIs) and for monitoring cross-cutting issues, as well as specific indicators to the FCH2 such as share of the funding allocated to research activities in areas of renewable energy, end-user energy efficiency, smart grids, and storage, as well as demonstrator projects hosted in Member States and regions benefiting from Union's Structural and Investment Funds;

Internal Audit

18. Notes that in 2020, in line with the strategic internal audit plan for 2019-2021, the internal audit service (IAS) launched an audit to assess the adequacy of the design and the efficiency and effectiveness of the internal control system in place and that that concluded that the FCH2 has set up an efficient and effective internal control system for the implementation and closing of grant agreements under the Horizon 2020 programme and it has re-enforced ex-ante controls and initiatives to boost dissemination and exploitation, and moreover that it did not identify any critical or very important issue;

Internal Controls

19. Notes that, according to the Court's report the FCH2 has set up ex-ante control procedures based on financial and operational desk reviews, and that implemented the Commission's new internal control framework in 2019 and that for the required annual self-assessment and monitoring of the effectiveness of the control activities, the FCH2 developed relevant indicators for all internal control principles and related characteristics;
20. Notes that, according to the Court's report for Seventh Framework interim and final payments, the FCH2 is responsible for ex-post audits at the beneficiaries, while for Horizon 2020 project cost claims, it is the Commission's Common Audit Service (CAS), and that based on the ex-post audit results available at the end of 2020, the FCH2 reported a representative error rate of 1, 9 7% and a residual error rate of 1, 01 % for its Seventh Framework projects, and a representative error rate of 2,16 % and a residual error rate of 1,34 % for Horizon 2020 projects (clearings and final payments); notes from the Commission's proposal for a Horizon 2020 regulation that the ultimate aim for the residual level of error at the closure of the programmes after the financial impact of all audits, correction and recovery measures will have been taken into account, is to achieve a level as close as possible to 2 %;
21. Notes that the Court audited randomly sampled Horizon 2020 payments made in 2020, at the level of the final beneficiaries to corroborate the ex-post audit error rates, as part of the operational payment controls, and that these detailed audits showed an error above 1 % of the audited costs caused by the application of a wrong exchange rate for the conversion of the declared costs into euro;
22. Emphasises that, in the Court of Auditors' annual report on the EU Joint Undertakings for 2020, the Court found persistent systemic errors in the personnel costs declared by beneficiaries, in particular on the part of SMEs and new beneficiaries; notes that such errors were also regularly reported in the ex post audits of the CAS and its contracted auditors; highlights that, on page 39 of that report, the Court states that the streamlining of Horizon 2020 rules for the declaration of personnel costs and the wider use of simplified cost options is a precondition for future research framework programmes, in order to stabilise error rates to below materiality level; encourages the FCH2 to strengthen its internal control systems given that SMEs and new beneficiaries are more error-prone;

23. Notes that the annual risk-assessment workshop held in October 2020 focused on critical risks affecting the achievement of FCH2 objectives as well as action plans that had been identified in the previous year, and assessed their adequacy and relevance for both 2020 and 2021, and that, in addition, consolidated input was gathered and discussed in order to establish a list of new significant risks for 2020, and the respective action plans were drawn up; notes, moreover, that the FCH2 implements the common research anti-fraud strategy and that in 2020, internal training sessions were organised on the early detection and exclusion system and on the anti-plagiarism tool.