2014 discharge: European Joint Undertaking for ITER and the Development of Fusion Energy - Fusion for Energy (F4E)

2015/2196(DEC) - 20/10/2015 - Court of Auditors: opinion, report

PURPOSE: presentation of the EU Court of Auditors' report on the annual accounts of **Fusion for Energy Joint Undertaking** for the financial year 2014, together with the Joint Undertaking's replies.

CONTENT: in accordance with the tasks conferred on the Court of Auditors by the Treaty on the Functioning of the European Union, the Court presents to the European Parliament and to the Council, in the context of the discharge procedure, a Statement of Assurance as to the reliability of the annual accounts of each institution, body or agency of the EU, and the legality and regularity of the transactions underlying them, on the basis of an independent external audit.

This audit concerned, amongst others, the annual accounts of the F4E – ITER and **the Development of Fusion Energy.**

Statement of assurance: pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- the annual accounts of the F4E, which comprise the financial statements and the reports on the implementation of the budget for the financial year ended 31 December 2014;
- the legality and regularity of the transactions underlying those accounts.

External auditor: it should be noted that 2014 is the first year whereby the **annual accounts of F4E were verified by an independent external auditor** (audit firm) according to Article 208(4) of the EU Financial Regulation and Article 107(1) of the new framework financial Regulation for agencies and other bodies. The Court's opinion on these accounts considered the audit work performed by the independent external auditor and the action taken in response to the auditor's findings.

Opinion on the reliability of the accounts: in the Court's opinion, the Joint Undertaking's annual accounts present fairly, in all material respects, its financial position as at 31 December 2014, and the results of its operations and its cash flows for the year then ended in accordance with the provisions of its financial rules and the rules adopted by the Commission's accounting officer.

Opinion on the legality and regularity of the transactions underlying the accounts: in the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2014 are, in all material respects, legal and regular.

Cost control mechanism: the Court's report also draws attention to the EU's contribution to ITER's construction phase. The cost fixed by the Council in 2010 amounted to EUR 6.6 billion. The Court considers that the complexity of F4E activities implies that this amount is **exposed to significant risks of increase** due to changes in the scope of the project deliverables and **delays in the current schedule, which is considered unrealistic.**

The latest estimate of the shortfall until the finalisation of the construction phase was EUR 428 million. The Joint Undertaking estimated the slippage for the construction phase of the project at the time of the audit (March 2015) to be at least 43 months. Bearing the risks in mind, the Joint Undertaking is

developing a central and uniform system to allow regular monitoring and controlling of estimates and costs but has not updated the valuation of the Joint Undertaking contribution to the ITER project beyond the finalisation of the construction phase. It has an action plan with specific measures to address the main constraints that are currently affecting the development of the project.

The audit also revealed the following points:

- **budgetary and financial management**: the budgetary implementation rate for commitment appropriations ranged between 90 % and 100 % for most Joint Undertakings including F4E and the rate for payment appropriations ranged between 74 % and 100 %;
- **procurement**: the Court notes that with regard to calls for proposals, the final rate of appropriations committed achieved a figure between 90 % and 100 %, including F4E;

Internal control: the Court of Auditors notes that significant progress has been achieved in many areas but that it still needs to increase the competitiveness of procurement procedures, which is essential for the implementation of the ITER project. Regarding grants, the average number of proposals received was only 1 per call.

Cross-cutting remarks for all the Joint undertakings: the monitoring and reporting of research results is laid down in the Seventh Framework Programme (FP7). In the grant agreements signed with members and other beneficiaries, the Joint Undertakings have included specific provisions governing intellectual property rights and the dissemination of research activities and results. The implementation of these provisions is monitored by the Joint Undertakings at different stages of the funded projects and significant progress has been achieved in 2014. However, in order to meet the requirements of Horizon 2020 and to better contribute to the dissemination of FP7 research results, the Court considers that cooperation between the Joint Undertakings and the Commission must be developed as much as possible with special regard to the further integration of some of the Joint Undertakings' data into the Commission's systems.

The Court also indicates that there is room to improve procedures, in particular in the implementation of the ex-post audit strategy, and cooperation with the Commission as regards the integration of the research results.

Replies of the Joint Undertaking: the Joint Undertaking replies point by point to all the technical remarks made by the Court of Auditors. It notes that in the past years F4E has been asked to implement a project with inherent technical challenges and management boundary conditions which have hardly any precedent worldwide: in the context of the already huge challenges of implementing a first-of-a-kind technically complex device like ITER, technical specifications are based on inputs largely provided by another entity, the ITER Organization (IO), and deviations to specifications, even during contract implementation, are extremely frequent. F4E has been at the receiving end of these, having to implement them mostly without any compensation.

The adoption in 2011 by the ITER Council of the so called 'MAC-10 guidelines', defining the responsibilities to be assumed for funding design changes and originally introduced with the objective to streamline decision making processes, has aggravated instead of improving the situation described above. This has led to a modest Systems/Value Engineering endeavour in the IO integration, **with cost overruns and further tensions developing amongst IO and all Domestic Agencie**s. This problem is severe for all Domestic Agencies, but in particular for F4E, where the impact of constant changes on components affects the buildings almost by 'default'.

F4E also indicates that cost clearly depends on work scope (i.e. design), and even more so when alterations are required during the very construction phase. The fact that the latter is largely under the control of IO and its governance, and the former of F4E, clearly shows **a misalignment of responsibilities**
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This is one of the most challenging aspects of the ITER project, as identified in the European Parliament's 2013 study on cost effectiveness of the ITER project by Ernst and Young. In short, due to the very set up of the agreement and its instruments, a significant fraction of the costs which F4E has to absorb are not under its direct control.

The Joint Undertaking notes that the capped budget for the current financial framework was established on the assumptions of the exercise carried out in 2008, but that **this does not mean in any way that there is no system for monitoring costs**. In fact there is already a fully operational system to control and monitor costs at the level of the procurement arrangement, but F4E did not have in place at the time of the audit (March 2015) all the data at level 6 (contracts). F4E did estimate costs in the individual project teams but not in a centralised and uniform manner.

With regard to the **activities of the Joint Undertaking in 2014**, the report refers to the Joint Undertaking' s latest available annual activity report for 2014 available at the following address: http://www.fusionforenergy.europa.eu/.

It should be noted that the budget for the Joint Enterprise was EUR 550.6 million of final revenue (payment appropriations) of which 77 % is funded by Community contribution.