



2024/2377

10.10.2024

RESOLUTION (EU) 2024/2377 OF THE EUROPEAN PARLIAMENT

of 11 April 2024

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the Europe's Rail Joint Undertaking for the financial year 2022

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the Europe's Rail Joint Undertaking for the financial year 2022,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,
- having regard to the opinion of the Committee on Transport and Tourism,
- having regard to the report of the Committee on Budgetary Control (A9-0091/2024),
- A. whereas EU-Rail Joint Undertaking was established by Council Regulation (EU) 2021/2085 ⁽¹⁾ (the 'Single Basic Act');
- B. whereas, in accordance with Article 174(6) of the Single Basic Act, EU-Rail Joint Undertaking is the legal and universal successor in respect of all contracts, including employment contracts and grant agreements, liabilities and acquired property of the Shift2Rail Joint Undertaking which it replaced and succeeded;
- C. whereas EU-Rail Joint Undertaking is a public-private partnership for research and innovation in the railway sector; whereas its founding members are the Union, represented by the Commission, and rail industry partners, including rail equipment manufacturers, railway companies, infrastructure managers, and research centres;
- D. whereas, to increase transparency, the EU-Rail Joint Undertaking should disclose in its annual accounts, relevant information regarding members' contributions at programme level; whereas, for each programme under which they operate, the EU-Rail Joint Undertaking should present per member category up to the year-end, all relevant information including the legal contribution targets set for the respective programme, the volume of contributions received, and the volume of legal commitments; whereas the EU-Rail Joint Undertaking should continue to improve transparency;

General

1. Notes, from the report of the Court of Auditor's (the 'Court's report') on the annual accounts of the EU-Rail Joint Undertaking for the financial year 2022, that the annual accounts present fairly, in all material respects, the financial position of the EU-Rail Joint Undertaking on 31 December 2022, 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, in all material respects, legal and regular;
2. Welcomes the successful commencement of activities by the EU- Rail Joint Undertaking in the end of 2021; welcomes furthermore its role in delivering an integrated EU railway network for European passengers and cargo;
3. Acknowledges, from EU-Rail Joint Undertaking's Consolidated Annual Activity Report ⁽²⁾ that 2022 was an ambitious and successful year achieving the ramp up phase of the EU-Rail Joint Undertaking and its programme which are now fully operational, including Innovation Pillar, System Pillar and, soon, the Deployment Group; notes, at the same time, that 2022 was a pivotal year for the innovation programmes of EU-Rail;
4. Takes note that all the technical demonstrators have either already demonstrated results of the work that has been ongoing since the launch of the programme or are gearing towards final preparation steps for demonstrations to happen in 2023;

⁽¹⁾ 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).

⁽²⁾ Europe's Rail Joint Undertaking: Consolidated Annual Activity Report 2022- https://rail-research.europa.eu/wp-content/uploads/2023/06/GB-Decision_07_2023_Annex_AAR_22.pdf

5. Notes that, during 2022, the founding members have been working together to operationalise their commitment to the EU-Rail Joint Undertaking submitting major proposals to the Call 2022-1, that following an open, transparent and independent assessment resulted in 6 Flagship Projects covering Phase 1 of the EU-Rail Programme; notes that these projects were operational by the end of 2022; notes, in addition, that, in parallel, the System Pillar was funded following a major call for tender;
6. Notes, moreover, that 2022 was marked also for the consistent implementation of a system approach to rail evolution, driven by the Commission's Directorate General for Mobility and Transport (DG MOVE) policy, where EU-Rail Joint Undertaking represents the research and innovation arm length and European Union Agency for Railways (ERA) the key system authority for European Rail Traffic Management System (ERTMS) and telematics applications, creating the opportunity for the European rail industry to bring forward its views and ambitions with 'one voice' with the expectation for a systemic and coherent approach at institutional level;
7. Notes the EU-Rail Joint Undertaking's Master Plan and its adjustment to the Plan with the 'Rail Strategic Research and Innovation Agenda' of the European Rail Research Advisory Council (ERRAC);
8. Commends close collaboration with key stakeholders, namely ERRAC, ERA, and other programs/partnerships, signifies a proactive effort to foster synergies and explore opportunities for joint projects within the European rail sector; welcomes EU-Rail Joint undertaking's engagement with associations and third-country programs, aimed at enhancing the competitiveness of the industry;

Budgetary and financial management

9. Notes from the EU-Rail Joint Undertaking's report on Budgetary and Financial Management 2021, that as a result of three budget amendments, the EU-Rail Joint Undertaking's adopted budget amounted to EUR 171,4 million in commitment appropriations and EUR 180,8 million in payment appropriations ⁽³⁾;
10. Is aware that the changes in the size of the EU-RAIL Joint Undertaking's budget largely depend on the implementation phase of the multiannual research and innovation programmes, notes that, in 2022, the EU-Rail Joint Undertaking started with the implementation of the Horizon Europe programme, and therefore, the 2022 budget includes the commitment budget for the first Horizon Europe calls planned for 2022, and the payment budget for the related pre-financing payments ⁽⁴⁾;
11. Notes that, at the year-end 2022, the EU-Rail Joint Undertaking had implemented 100 % of its commitment appropriations made available in its active budget (Titles 1 to 3); notes, in addition, that the payment appropriations were implemented up to 79,1 % of the active funds (respectively 79 % of implementation when compared to the full EU-Rail Joint Undertaking budget including Title 4) ⁽⁵⁾;
12. Notes, that, by means of the Governing Board Decision No 08/2021 of 25 November 2021, the Governing Board of the Shift2Rail Joint Undertaking adopted the initial Annual Work Plan and Budget for 2022, which continued to apply to EU-Rail Joint Undertaking by means of adoption by the EU-Rail Joint Undertaking Governing Board of the so-called 'omnibus decision'; notes that, by the time of such adoption, the budget appropriations included in the Budget 2022 were not foreseen to cover the full financial year 2022, but to ensure the running of the activities till the launch of the new partnership, the EU-Rail Joint Undertaking, and to ensure the necessary business continuity of the activities;
13. Notes that, as regards the administrative costs, the implementation rate in commitment appropriations was 100 % and in payment appropriations was 84 % (compared to 95 % in 2021); notes that the EU-Rail Joint Undertaking justified this decrease with the fact that the EU-Rail Joint Undertaking could only expect to reach its full staffing by the end of the year at the earliest;

⁽³⁾ Respectively EUR 13,6 million and EUR 68,4 million for 2021.

⁽⁴⁾ ECA report (p.106), https://www.europarl.europa.eu/cmsdata/277992/RAS-Jus-FY2022_EN.pdf

⁽⁵⁾ Title 1 - Staff expenditure; Title 2 - Infrastructure and operating expenditure; Title 3 and 4 - Operational expenditure.

14. Notes that the implementation rate of the Operational Budget in commitment appropriations was 100 % and 79 % in payment appropriations (compared to 84 % in 2021); understands that the implementation rate also includes EUR 76 000 relating to Expert Evaluators which are managed by the Services of the European Research Executive Agency;
15. Notes that the amount (EUR 41,1 million) under Title 5 - Unused appropriations not required in current year - established to support a transparent implementation of EU-Rail Joint Undertaking Financial Rules' Article 6.5, the so-called n+3 rule - will be reactivated in the future year budget(s) and used first;
16. Notes, from the Court's observations, that the amounts of contributions recognised per member category (Union and private members) differ significantly from each other; understands that this is because EU cash contributions are validated and recognised when paid to the EU-Rail Joint Undertaking at the beginning of the project implementation, but members' in-kind contributions are only recognised after validation of the costs incurred and declared for project implementation;
17. Calls on the EU-Rail Joint Undertaking to address the gap between the recognised amount of cash contributions on the one hand and in-kind contributions on the other hand by providing information on the EU-Rail Joint Undertaking members' legal commitments at year end, in terms of signed grant agreements and contracts; welcomes the EU-Rail Joint Undertaking's commitment to address this observation in the next year's (2023) annual accounts;
18. Notes, regarding the implementation of the Horizon 2020 programme, that, at the end of 2022, the EU-Rail Joint Undertaking had fully committed the maximum EU operational contribution of EUR 384,5 million for signed grant agreements and contracts under the Horizon 2020 programme; notes, moreover, that of this committed amount, around EUR 68,2 million (or 18 %) remains to be paid in the coming years for projects yet to be completed;
19. Notes, with satisfaction, that the private members had legally committed to provide in-kind contributions to the EU-Rail Joint Undertaking's operational activities of EUR 320,7 million, and in-kind contributions to additional activities of EUR 244 million or 123,7 % of the minimum target of EUR 456,5 million, and that these committed amounts were reported at the end of 2022;
20. Notes, still for Horizon 2020 activities, that the EU-Rail Joint Undertaking received no new operational commitment appropriations as it had finished its last call for proposals by the end of 2021; notes that the implementation rate for the operational payment appropriations, including operational unused and reallocated appropriations, fell to 47 % (compared to 2021: 61 %); understands that, according to the EU-Rail Joint Undertaking, this was due to the rising costs and delivery problems faced by beneficiaries arising from the COVID-19 crisis and the war in Ukraine and that, as a consequence, the duration of most Horizon 2020 projects had to be prolonged and final payments postponed to 2023;
21. Notes, for the implementation of the Horizon Europe programme, that, in 2022, the Commission made cash contributions of EUR 108,9 million; notes that the EU-Rail Joint Undertaking successfully closed the first two calls under the Horizon Europe programme, and almost fully used the operational contribution part of EUR 107,5 million for pre-financing the first grant agreements concluded under the programme;
22. Commends the pivotal milestones achieved by the Shift2Rail Programme by the end of 2022, with full commitment of resources and about 86 % of the Programme realized and 91 % in term of financial Programme execution for 2023, in view of reaching the TRL6/7 operational demonstrations planned for conclusion during 2023;
23. Notes that, with regard to the provisional accounts of EU-Rail Joint Undertaking no audit certificate on 2022 IKOP/IKAA was received; awaits validation of 2022 IKOP following project cost submissions in February 2023;
24. Notes that, in 2022 the cumulative value of activities awarded by EU-Rail Joint Undertaking to Shift2Rail Joint Undertaking for research and innovation activities amount to EUR 619,4 million and realised for EUR 92 million;
25. Stresses the importance of delivering a sustainable and resilient rail system by developing a zero-emission, silent rail system and climate resilient infrastructure, applying circular economy, piloting innovative processes, technologies, designs and materials in the life cycle of rail systems and developing other innovative solutions for guided surface transport;

26. Calls for increased support for Research and Innovation activities to deliver an integrated European railway network, eliminating barriers to interoperability and providing solutions for full integration, covering traffic management, vehicles and infrastructure, and integration with non-standard gauges (such as 1 520, 1 000 or 1 668 mm railway, which showed to be important for the Solidarity Lanes in Ukraine); highlights the importance of addressing the needs of passengers and businesses, accelerating the adoption of innovative solutions to support the Single European Railway Area, while increasing capacity, reliability and decreasing costs of railway transports;
27. Calls for a fast transition to more attractive, user-friendly, competitive, affordable, easy to maintain, efficient and sustainable European rail system integrated into the wider mobility system for supporting the development of a strong and globally competitive European rail industry;

Procurement and staff

28. Notes, with regard to the implementation of procurement activities, that the EU-Rail Joint Undertaking has complied with the principles of the Financial Regulation and the guidance provided in the Commission's Procurement Vademecum, this resulting in the implementation of activities obtaining the best value for money; notes that the values established for the different procurement procedures, which are below any materiality level considering the total value of the research and innovation activities and the Programme, result from the collective knowledge of involved staff and their experience in previous private and public organizations;
29. Notes that, in 2022, for open procedures, the EU-Rail Joint Undertaking continued using the e-tendering and the e-submission platforms available from the TED e-Tendering website and accessible on the Funding and Tenders Opportunities portal⁵⁴; notes that, in the context of the eProcurement strategy, in 2022, EU-Rail Joint Undertaking started the on-boarding process of the Public Procurement Management Tool (PPMT), the tool that will replace TED e-notices and e-tendering ⁽⁶⁾;
30. Notes that, during 2022 several guidance documents and templates for procurement procedures continued to be updated by the Chief Legal Officer (i.e.: calendar, tender specifications, opening and evaluation of tenders, award procedures for low value contracts, etc.) to adapt them to EU-Rail Joint Undertaking needs and to the DG BUDG recommendations, in particular to the e-submission procedure;
31. Notes that, in 2022, the EU-Rail Joint Undertaking conducted an open tender procedure: Europe's Rail System Pillar (3 lots) – framework services contracts for the provision of services to EU-Rail Joint Undertaking in the fields of System Pillar; notes that the awarded total amount is EUR 45 million with EUR 4 million awarded to lot 1, EUR 37 million awarded to lot 2 and EUR 4 million awarded to lot 3 ⁽⁷⁾;
32. Notes that Title 1 and Title 2 of the budget were executed up to 100 %, with Title 1 (Staff Expenditure) being used mainly for staff salaries; notes that, during the year, the EU-Rail Joint Undertaking also made use of external support to fill the gaps until the recruitments of staff are finalised and to cope with the workload related to the EU-Rail Joint Undertaking activities;
33. Notes that, at the end of 2022, 28 posts were filled;
34. Notes that the current EU-Rail Joint Undertaking Staff Establishment Plan was adopted by the Governing Board on 1 March 2022, introducing temporary agent positions in relation to the new role of the EU-Rail Joint Undertaking in the System Pillar and to further strengthen the support to policy activities with its integrated research and innovation Programme;
35. Notes that, according to the Staff Establishment Plan, EU-Rail Joint Undertaking shall be staffed with 29 staff members including 2 seconded national experts; notes that, in 2022, most of the vacant posts were being progressively filled, while having no staff members leaving, the EU-Rail Joint Undertaking still experienced some temporary leaves; notes that to fill temporary gaps or long-term absences, the EU-Rail Joint Undertaking also made use of external competencies and expertise to achieve its operational activities, as well as of temporary outsourcing of some administrative tasks;

⁽⁶⁾ The on-boarding process is scheduled to be finalised by Q1-Q2 2023.

⁽⁷⁾ EU-Rail in the fields of System Pillar core group (lot 1), System Pillar expertise (lot 2) and CCS TSI maintenance activities (lot 3) concluded on 12 July 2022 with contractor System Pillar Consortium (for the 3 lots) Europe's Rail Joint Undertaking: Consolidated Annual Activity Report 2022 (p. 131-132).

36. Notes that from the Consolidated Annual Activity Report of the EU-Rail Joint Undertaking, improvements are still expected regarding gender balance, at management board as well as in all other EU-Rail Joint Undertaking levels; notes that EU-Rail Joint Undertaking had in 2022 for the management board, 28 (58 %) men and 21 (42 %) women; notes that the gender ratio at the level of EU-Rail Joint Undertaking's management was 78 % men and 22 % women and the whole staff was made up of 65 % men and 35 % women; welcomes that the management board has appointed a second female Head of Unit position to the management team of the EU-Rail Joint Undertaking; suggests the EU-Rail Joint Undertaking to continue to improve gender balance and strive for a balanced geographical balance in this respect;

Management and control systems

37. Acknowledges that, for Horizon 2020 and Horizon Europe expenditure, the Common Audit Service of the Commission's Directorate-General for Research and Innovation (DG RTD) is responsible for the ex-post audits; notes that, for Horizon 2020 expenditure (clearings and final payments), the EU-Rail Joint Undertaking reported a representative error rate of 2,2 % and a residual error rate of 1,3 %;
38. Notes, that for the Horizon Europe programme, ex-post audits have yet to be carried out, as the first interim payments are only expected in 2024;
39. Notes that, to assess the operational payment controls of the EU-Rail Joint Undertaking, the Court audited randomly sampled Horizon 2020 payments made in 2022, at the level of the final beneficiaries ^(*); notes that, for one case, the Court found and quantified a serious error resulting from over claimed personnel cost because the beneficiary considered indirect costs in the calculation basis of the cost centres' unit cost rates; notes that such costs are, however, covered by the 25 % flat rate for indirect costs;
40. Notes that , while the EU-Rail Joint Undertaking performed on an ad-hoc basis risk-based ex-ante controls on risky projects, it had not yet implemented a structured risk-based approach to ex-ante controls by the end of 2022; notes, in particular, that the EU-Rail Joint Undertaking had not aligned ex-ante controls to the high-risk factors identified by targeted risk assessments and that it had not developed internal practical guidance on how to implement a risk-based monitoring, including instructions on how staff should use the risk management module available in COMPASS;
41. Consequently, the EU-Rail Joint Undertaking did not ensure a complete and harmonised assessment of their relevant project and beneficiary-related risks, which may result in inefficient and/or ineffective ex-ante controls increasing the risk of co-financing ineligible costs, non-achievement of project objectives, project delays or even project failures;
42. Echoes the Court call for action that EU-Rail Joint Undertaking should implement a structured risk-based approach to ex-ante controls covering relevant project and beneficiary-related risks; agrees, moreover, that EU-Rail Joint Undertaking, should develop internal, practical guidance on how to implement a risk-based monitoring at the level of projects and beneficiaries, and how staff should use the risk management module available in COMPASS;
43. Calls on the EU-Rail Joint Undertaking to address weaknesses in the use of the reinforced monitoring tool; agrees that the EU-Rail Joint Undertaking should ensure that all reinforced monitoring actions are accompanied by specific control actions targeting the identified risks, and that they are followed-up at pre-defined deadline;
44. Notes that the EU-Rail Joint Undertaking would like to underline that the risk of errors in Horizon 2020 grant payments was highly mitigated by the use of lump-sums;
45. Notes, in particular, that the EU-Rail Joint Undertaking ensured reasonable lump sums by using financial experts during the call evaluation procedures and carefully investigated and negotiated all cost items questioned by the financial experts during the grant agreement preparation phase, in accordance with Commission Decision C(2017) 7151 of 27 October 2017 on authorising the use of reimbursement on the basis of a lump sum for the eligible costs of actions under the Horizon 2020 Framework Programme;
46. Notes, with satisfaction, that the Joint undertaking, while having embedded procedures for the ex-ante identification of high-risk factors for Horizon 2020 grant agreements, it recognises that these procedures could be better aligned with the Commission guidance on risk-based ex-ante controls;

^(*) Regarding the grant payment transactions tested at the beneficiaries, the reporting threshold for quantifiable errors is 1 % of the audited costs (ECA report, p.110).

Follow-up of previous years' observations

47. Notes that observations in the EU-Rail Joint Undertaking's specific annual reports are in fact 'not timed recommendations' by the Court; notes that ECA annually follows-up on those observations by assessing their status as 'open' or 'closed';
 48. Notes that, as regards two Court's observations for 2021, one is still open, it concerned the low implementation rate for the EU-Rail Joint Undertaking's 2021 operational payment budget available, including operational unused and reallocated appropriations (fell to 61 % (compared to 2020: 76 %));
 49. Notes that this situation was mainly caused by the poor quality of the beneficiaries' technical reports and the need of additional evidence confirming the achievement of the project results and the fact that the delay of a single beneficiary affects the payment of the whole lump-sum amount;
 50. Appreciates that, in 2022, the EU-Rail Joint Undertaking developed an action plan to improve the beneficiaries' financial reporting, which is important in particular for reimbursements on the basis of a lump-sum for the eligible costs of actions where the delay of a single beneficiary affects the payment of the whole lump-sum amount.
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