

REPORT

on the annual accounts of the Single European Sky Air Traffic Management Research Joint Undertaking for the financial year 2016, together with the Joint Undertaking's reply

(2017/C 426/08)

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INTRODUCTION

Establishment of the SESAR Joint Undertaking

1. The Single European Sky Air Traffic Management Research (SESAR) Joint Undertaking, located in Brussels, was set up in February 2007 for a period of eight years and started to work autonomously on 10 August 2007 ⁽¹⁾. In June 2014, the Council amended the founding Regulation and extended the lifetime of the Joint Undertaking up to 31 December 2024 ⁽²⁾.

2. The SESAR Joint Undertaking is a public-private partnership for the development and deployment of modernised air traffic management (ATM) in Europe. The founding members are the European Union (EU), represented by the Commission, and the European Organisation for the Safety of Air Navigation (Eurocontrol). Following a call for expressions of interest, 19 public and private entities from the aviation sector became members of the Joint Undertaking. They comprise aircraft manufacturers, ground and airborne equipment manufacturers, air navigation service providers and airport authorities.

Governance

3. The governance structure of the SESAR Joint Undertaking includes the Administrative Board and the Executive Director.

4. The Administrative Board is composed of representatives of the SESAR Joint Undertaking members, together with Stakeholder Representatives (for the military, civil users of airspace, air navigation service providers, equipment manufacturers, airports, staff in the ATM sector and the scientific community). The Board is responsible for adopting the ATM Master Plan endorsed by the Council and exercising overall control over the implementation of the SESAR project. The Executive Director is responsible for the day-to-day management of the Joint Undertaking.

Objectives

5. The SESAR project aims to modernise ATM in Europe by defining, developing and delivering new or improved technologies and procedures. The project is divided into three phases:

- a 'definition phase' (2004-2007) led by Eurocontrol, co-financed by the Trans-European Networks (TEN-T) programme. The outcome was the European ATM Master Plan, which defines the content and describes the development and deployment of the next generation of a modern ATM system,
- a two-term 'development phase' (2007-2013, extended to 2016) managed by the SESAR Joint Undertaking, with co-financing from the TEN-T and Seventh Research Framework (FP7) programmes,
- a 'deployment phase' (2014-2024) to be led by the air traffic industry and stakeholders for the large-scale production and implementation of the new ATM infrastructure, with co-financing from Horizon 2020.

6. The objective of the SESAR Joint Undertaking under the FP7 and the TEN-T programmes was to modernise and increase the safety of ATM in Europe by coordinating and concentrating all relevant research and development efforts in the EU for the production of new technological systems, components and operational procedures as defined in the European ATM Master Plan (SESAR I — development phase). Under Horizon 2020, the SESAR Joint Undertaking implements the SESAR II programme (SESAR 2020) with the objective of coordinating research and innovation by its stakeholders (continuation of the development phase) and implementing the new ATM infrastructure (deployment phase).

⁽¹⁾ Council Regulation (EC) No 219/2007 of 27 February 2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) (OJ L 64, 2.3.2007, p. 1), amended by Regulation (EC) No 1361/2008 (OJ L 352, 31.12.2008, p. 12).

⁽²⁾ Council Regulation (EU) No 721/2014 of 16 June 2014 amending Regulation (EC) No 219/2007 on the establishment of a Joint Undertaking to develop the new generation European air traffic management system (SESAR) as regards the extension of the Joint Undertaking until 2024 (OJ L 192, 1.7.2014, p. 1).

Resources

7. The budget for the development phase of the SESAR I Programme 2008–2015 was 2 100 million euro, to be provided in equal parts by the EU, Eurocontrol and the participating public and private partners from the air traffic sector. The EU contribution of a maximum of 700 million euro is funded from the FP7 and TEN-T programmes ⁽³⁾.
8. The maximum EU contribution to the SESAR Joint Undertaking for the implementation of SESAR 2020 is 585 million euro, to be paid from Horizon 2020 ⁽⁴⁾. According to the SESAR 2020 Membership Agreements, Eurocontrol is to contribute around 500 million euro, while the other members from the air traffic sector are to contribute resources amounting to at least 720,7 million euro to the Joint Undertaking's operational activities. Around 90 % of the funding from Eurocontrol and the other members is in the form of in-kind contributions.
9. For the cash contributions to the Joint Undertaking's administrative costs, the Administrative Board decides on the amounts to be released by each member in proportion to the contributions which it has agreed to pay and establishes the deadlines by which the members must pay their contributions.
10. In 2016, the payment budget of the SESAR Joint Undertaking was 157,1 million euro (2015: 136,9 million euro). At 31 December 2016, the Joint Undertaking employed 44 staff (2015: 41) ⁽⁵⁾.

OPINION

11. We have audited:

- (a) the accounts of the Joint Undertaking which comprise the financial statements ⁽⁶⁾ and the reports on the implementation of the budget ⁽⁷⁾ for the financial year ended 31 December 2016; and
- (b) the legality and regularity of the transactions underlying those accounts, as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Opinion on the reliability of the accounts

12. In our opinion, the accounts of the Joint Undertaking for the year ended 31 December 2016 present fairly, in all material respects, the financial position of the Joint Undertaking at 31 December 2016, 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. These are based on internationally-accepted accounting standards for the public sector.

Opinion on the legality and regularity of revenue underlying the accounts

13. In our opinion, revenue underlying the accounts for the year ended 31 December 2016 is legal and regular in all material respects.

Opinion on the legality and regularity of payments underlying the accounts

14. In our opinion, payments underlying the accounts for the year ended 31 December 2016 are legal and regular in all material respects.

⁽³⁾ Article 3 of the General Agreement between the European Commission and the SESAR Joint Undertaking, December 2009.

⁽⁴⁾ Article 4(1) of Regulation (EC) No 219/2007 as amended by Regulation (EC) No 1361/2008.

⁽⁵⁾ Further information on the Joint Undertaking's activities is available on its website: <http://www.sesarju.eu>

⁽⁶⁾ The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

⁽⁷⁾ The reports on the implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Responsibilities of management and those in charge of governance

15. In accordance with Articles 310 to 325 of the TFEU and the Joint Undertaking's Financial Regulation, management is responsible for the preparation and presentation of the accounts on the basis of internationally-accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This responsibility includes the design, implementation and maintenance of internal control relevant to the preparation and presentation of financial statements that are free from material misstatement, whether due to fraud or error. Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them. The Joint Undertaking's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the accounts.

16. In preparing the accounts, management is responsible for assessing the Joint Undertaking's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting.

17. Those in charge of governance are responsible for overseeing the entity's financial reporting process.

Auditor's responsibilities for the audit of the accounts and underlying transactions

18. Our objectives are to obtain reasonable assurance about whether the accounts of the Joint Undertaking are free from material misstatement and the transactions underlying them are legal and regular and, on the basis of our audit, to provide the European Parliament and the Council or other respective discharge authorities with a statement of assurance as to the reliability of the accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

19. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and the regularity of the transactions underlying them. The procedures selected depend on the auditor's judgment, including an assessment of the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error. In making those risk assessments, internal control relevant to the preparation and fair presentation of the accounts and legality and regularity of underlying transactions is considered in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of internal control. An audit also includes evaluating the appropriateness of accounting policies used, the reasonableness of accounting estimates made by the management and the overall presentation of the accounts.

20. For revenue, we verify the subsidy received from the Commission and assess the Joint Undertaking's procedures for collecting fees and other income.

21. For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments (including those made for the purchase of assets) at the point they are made.

22. In preparing this report and opinion, we considered the audit work of the independent external auditor performed on the Joint Undertaking's accounts as stipulated in Article 208(4) of the EU Financial Regulation ⁽⁸⁾.

23. The comments which follow do not call the ECA's opinions into question.

⁽⁸⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

BUDGETARY AND FINANCIAL MANAGEMENT

Implementation of the 2016 budget

24. Taking into account unused payment appropriations from previous years (5,7 million euro), the final 2016 budget available from FP7 and Horizon 2020 included commitment appropriations of 101,4 million euro and payment appropriations of 162,8 million euro. The utilisation rates for commitment and payment appropriations were 95,7 % and 63,2 % respectively. The low implementation rate for payment appropriations is mainly due to delays in the implementation of the studies and developments conducted by the members of the SESAR Joint Undertaking.

Multiannual budget implementation under FP7 and TEN-T

25. Out of the total operational and administrative budget of 892,8 million euro for SESAR I activities ⁽⁹⁾, by the end of 2016 the SESAR Joint Undertaking had made commitments of 827,4 million euro and payments of 704,2 million euro (79 % of the available budget).

26. Out of the 1 254,5 million euro of in-kind and cash contributions to be made by the other members to the operational and administrative activities of the SESAR Joint Undertaking (670,2 million euro from Eurocontrol and 584,3 million euro from the air traffic sector members), by the end of 2016 the Joint Undertaking had validated contributions of 910 million euro (427,7 million euro from Eurocontrol and 482,3 million euro from the air traffic sector). In-kind contributions of 1 33,5 million euro from the other members had been reported to the SESAR Joint Undertaking by the end of 2016 (49,2 million euro from Eurocontrol and 84,2 million euro from the air traffic sector members).

27. At the end of 2016, cumulative cash contributions from the EU amounted to 597,1 million euro, compared to total in-kind and cash contributions of 476,9 million euro from Eurocontrol, and 566,5 million euro from the air traffic sector members.

Multiannual budget implementation under Horizon 2020

28. Out of the 585 million euro of Horizon 2020 funds allocated to the SESAR Joint Undertaking for the implementation of SESAR 2020, by the end of 2016 the Joint Undertaking had made commitments of 61,6 million euro and payments of 49,9 million euro (8,5 % of the allocated funds). The payments were mainly pre-financing payments for the first wave of SESAR 2020 projects.

29. By the end of 2016, the cumulative EU cash contributions to the operational activities of the Joint Undertaking amounted to 56,8 million euro.

30. The other members should make in-kind and cash contributions of 1 220,7 million euro to the operational activities of the Joint Undertaking for SESAR 2020 (500 million euro from Eurocontrol and 720,7 million euro from the air traffic sector). However, at the end of 2016, SESAR 2020 projects were in their early stages and no in-kind and cash contributions had been validated by the Administrative Board.

INTERNAL CONTROLS

Internal control framework

31. The SESAR Joint Undertaking has set up *ex ante* control procedures based on financial and operational desk reviews, and performs *ex post* audits of beneficiaries. These checks are key tools for assessing the legality and regularity of the underlying transactions, including the cash and in-kind contributions to the Joint Undertaking by its members other than the EU. The residual error rate for the *ex post* audits reported by the Joint Undertaking at the end of 2016 was 1,34 % ⁽¹⁰⁾.

⁽⁹⁾ The total of 892,8 million euro is composed of the 700 million euro EU cash contribution funded by the FP7 and TEN-T programmes, a 165 million euro cash contribution from Eurocontrol and a 27,8 million euro cash contribution from air traffic industry members.

⁽¹⁰⁾ SESAR Joint Undertaking 2016 Annual Activity Report, p. 81.

Reporting and checking in-kind contributions to SESAR 2020 projects

32. The SESAR Joint Undertaking has not yet introduced specific guidance for the members and their external auditors concerning the declaration and certification of members' in-kind contributions to SESAR 2020 projects. The Joint Undertaking has also not established internal guidance on its *ex ante* checks of cost claims for SESAR 2020 projects, based on the Commission's *ex ante* control strategy for Horizon 2020.

Assessment of the financial capacity of applicants under calls for proposals

33. For the restricted call for industrial research which was limited to the Joint Undertaking's industry members, the Joint Undertaking awarded grants to project consortia, despite the fact that, in two cases, the checks of the financial viability of the beneficiaries performed by the Research Executive Agency indicated that the financial capacity of the coordinating industry member of the consortia was weak. This implies a higher financial risk to the completion of those projects and the financial risk is also higher for the other projects in which these two beneficiaries are involved. The Executive Director's decision in these two cases was based on complementary ad hoc risk assessments performed by SESAR Joint Undertaking staff. The Joint Undertaking has, however, not yet established a systematic internal procedure to reassess a weak financial viability of a grant project coordinator, including measures to mitigate and compensate for the increased financial risk.

Cost-effectiveness of service contracts

34. In its procedures for the procurement of services, the Joint Undertaking sets a maximum contract budget. This maximum amount is not based on a systematic cost estimation process and a reasonable market price reference system. This does not ensure the cost-effectiveness of its multiannual service contracts, as experience shows that most of the bids received were close to the maximum budget.

This Report was adopted by Chamber IV, headed by Mr Baudilio TOMÉ MUGURUZA, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2017.

For the Court of Auditors

Klaus-Heiner LEHNE

President

ANNEX

Follow-up of previous years' comments

Year	The ECA's comment	Status of corrective action (Completed/Ongoing/Outstanding)
	<i>Conflicts of interest</i>	
2015	In July 2015, the Commission issued guidelines to the Joint Undertakings related to rules on conflicts of interest, including a common template for the declaration of absence of a conflict of interest, which should be incorporated by the Joint Undertaking into its procedures.	Completed

THE JOINT UNDERTAKING'S REPLY

24. One of the main reasons for the delay in implementation of payments for member studies and developments has been difficulties in adapting the common Horizon 2020 IT tools to the special needs of the SESAR Joint Undertaking. This process started in 2016 and is still ongoing.

30. For the SESAR Horizon 2020 projects under the restricted calls, it is expected that members will submit their first cost declarations in 2018. The SESAR Joint Undertaking will then start to validate the related in-kind contributions.

32. In December 2016 the SESAR Joint Undertaking's Administrative Board adopted the document 'Methodology and validation process for in-kind contributions (IKC) in the SJU (SESAR 2020 Programme only)', according to which the SESAR Joint Undertaking will develop Terms of Reference and a model certificate, to be presented to the Board in due time, before the reception of any in-kind contributions in 2018. The SESAR Joint Undertaking will investigate if there is some need to adapt the Commission's Horizon 2020 *ex ante* control strategy to specific risks related to SESAR 2020 projects. Meanwhile the SESAR Joint Undertaking applies the Commission's *ex ante* control strategy by analogy.

33. Following the results of complementary risk assessments carried out in accordance with the H2020 guidelines, the SESAR Joint Undertaking found that rejecting the project coordinators on the sole basis of the analysis conducted by REA could have exposed the Joint Undertaking to a significant risk of appeal. The SESAR Joint Undertaking agrees, however, that an internal procedure for the reassessment of the weak financial viability of a grant project coordinator, including measures to mitigate and compensate for the increased financial risks, should be established.

34. Following the observation of the Court, in April 2017 the SESAR Joint Undertaking introduced a methodology to systematically assess during the procurement planning phase the needs and costs for contracts. The methodology has already been used on several occasions.
