

【欧州】 【Common】

Common - EU decarbonization policy at European Commission level: Amendments to Effort Sharing Regulation on binding annual GHG emission reductions and Commission Implementing Decision (EU) 2023/1319 on annual emission allocations for covered EU Member States enter into force

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【概要 : Summary】

Based on the EU's commitment under the Paris Agreement and the European Green Deal to reach climate neutrality by 2050, the European Climate Law (Regulation (EU) 2021/1119) incorporated the European Green Deal's goal and introduced a new 2030 target for reducing GHG emissions by at least 55%, compared to 1990 levels. To put EU legislation in line with the new 2030 GHG emission reduction target, the European Commission presented the "Fit for 55" package on 14 July 2021. The proposal on the review of the Effort Sharing Regulation (EU) 2018/842 (ESR) on binding annual reductions of GHG emissions from sectors not covered by the EU-ETS, which also includes the transport sector's GHG emissions, revises the EU-wide GHG emission target for 2030 for the sectors covered, as well as national effort targets of individual EU Member States.

The Regulation (EU) 2023/857 was published in the EU's Official Journal on 26 April 2023 and entered into force on 16 May 2023. The Commission Implementing Decision (EU) 2023/1319 on the revision of the Member States' annual

emission allocations towards 2030 entered into force on 19 July 2023.

The Regulation (EU) 2023/857 mainly revises the rules of the Regulation (EU) 2018/842. The provisional political agreement between the European Parliament and the Council on the ESR amendments was reached on 8 November 2022 and was formally adopted by the co-legislators in March 2023. The ESR amendments include an increase of the EU's common 2030 mandatory GHG reduction target from 29% to 40% compared to 2005 levels, and a stricter regulation of the individual Member States' GHG emissions regarding the covered sectors, in line with a stricter trajectory. All EU Member States must now achieve GHG emission reductions between 10-50% and stricter limits to transfer, bank and borrow emission allocations will be introduced. Regulation (EU) 2023/857 strikes the right balance between the EU Member States' need to be flexible in achieving their GHG emissions targets of sectors not covered by the EU-ETS, while ensuring the transition toward the European Green Deal's 2050 targets.

【記事 : Article】**1. Background for amending the Effort Sharing Regulation (ESR)**

The Effort Sharing Regulation (ESR) Regulation (EU) 2018/842 is the successor of the Effort Sharing Decision (Decision No 406/2009/EC) that set annual national GHG emission reduction targets for EU Member States to reduce their GHG emissions towards meeting the European Community's commitments in the period 2013–2020. The Regulation (EU) 2018/842 sets binding national GHG emission targets for EU Member States to fulfilling the EU's target of reducing its GHG emissions for the period 2021–2030, including those sectors not covered by the EU-ETS (Regulation (EU) 2018/842). The Regulation (EU) 2018/842 covers economic sectors including transport (except for aviation and non-domestic shipping), heating of buildings, agriculture, small industrial installations, and waste management, which are not included in the EU-ETS I but represent around 60% of the EU's total GHG emissions for the period 2021–2030 (Regulation (EU) 2018/842). The ESR Regulation (EU) 2018/842 also lays down rules on determining annual emission allocations and distributes the national efforts by EU Member States based on the Member States GDP per capita. Member States with higher GDP per capita contribute to the EU's targets with higher GHG emission reduction targets (Regulation (EU) 2018/842, European Commission n.d.a, European Commission 2021a). Based on the ESR Regulation (EU) 2018/842, the GHG emission reduction target was set at -30% by 2030 compared to 2005 levels, respectively 29% for the EU-27 without the UK (Regulation (EU) 2018/842, European Commission 2021a, European Parliament 2022).

However, since the EU Climate Law Regulation (EU) 2021/1119 made the European Green Deal's target of reaching carbon neutrality by 2050 legally binding, also the 2030 GHG emission reduction target was raised to at least 55% based

on 1990 levels. Consequently, also the ESR target had to be revised (Regulation (EU) 2021/1119, European Commission 2021b). If the ESR legislation had remained unchanged, sectors currently covered by the ESR would together have achieve a GHG emission reduction of -32% by 2030 compared to 2005 (COM (2021) 555 final). This result would still have been an insufficient contribution to the overall target of reducing the EU's GHG emissions by at least -55% by 2030 (European Commission 2022, Regulation (EU) 2021/1119).

Therefore, the proposal COM/2021/555 final under the “Fit for 55” package of 14 July 2021 intends to amend the ESR legislation to contribute to the new 2030 target (European Parliament 2022a).

2. The proposal for a revision of the ESR (COM/2021/555 final)

The Commission's proposal COM/2021/555 final includes to increase the EU-wide GHG emission reduction target for the ESR covered sectors from currently 29% to 40% by 2030, compared to 2005. This implies an increase of the EU-wide target by 11 percentage points for the covered sectors and more ambitious targets per country, ranging from -10% to -50% compared to 2005 (European Parliament 2022a, European Commission n.d.a, COM (2021) 555 final). National ESR targets are set in accordance with each Member State's economic capacity, and they are mainly based on the relative differences in gross domestic product (GDP) per capita (European Commission 2022, European Commission n.d.b). Examples of potential measures that Member States can take to reduce GHG emissions of covered sectors include the promotion of public transport; retrofitting buildings; more efficient heating and cooling systems; and more climate-friendly agricultural practices, among others (European Commission 2022). While the revised ESR continues to recognise the different capacities

of Member States by differentiating targets according to their GDP per capita, annual emissions allocations (AEAs) would be set for each Member State and progressively by reduced. In 2025, the Commission intends to adjust the targets per country for the 2026–2030 period (European Parliament 2022a). The Commission also proposes to establish an additional reserve to help Member States comply with their more ambitious ESR targets (European Commission n. d. a, European Commission n. d. b).

In addition to the EU Member States, also Iceland and Norway have agreed to implement the ESR and commit to binding annual GHG emission targets for the period 2021–2030. After an eventual incorporation of the amended ESR into the EEA Agreement by Iceland, Liechtenstein, and Norway, they will apply the same rules and have the same obligations and flexibilities as EU Member States (EFTA n. d., European Commission n. d. b).

Moreover, while the amended ESR will keep the existing architecture and scope with more ambitious targets for the EU Member States, it will also continue to cover the road transport and buildings sectors, although they also will be included in a new EU-ETS II (COM (2021) 555 final, European Commission 2022).

The reason for keeping the sectors buildings and transport except aviation and non-domestic shipping included in the ESR although they will also be covered by a separate EU-ETS system is due to the fact that it would be premature to leave the task to decrease the GHG emissions from buildings and road transport exclusively to the new separate EU-ETS II system. Furthermore, GHG emission reductions in these ESR-covered sectors have been insufficient so far, and GHG emissions from road transport are still rising. Therefore, the option to retire these sectors from the ESR will deserve proper consideration in a future review, building on the lessons learned from the functioning of emission trading for these two sectors (COM(2021) 555 final). The emissions cap

for the new EU-ETS II will be set from 2026 based on data collected under the ESR (European Parliament 2022b).

Regarding the post-2030 period, the ESR proposal COM (2021) 555 final creates an obligation for national governments to explain how they intend to contribute to the collective target of climate neutrality via their National Energy and Climate Plans, which will be updated by mid-2024. Based on the submitted plans, the European Commission will then propose, by the end of 2025, individual Member State targets and EU-wide measures for the post-2030 period (European Commission 2021).

3. Main aspects of the European Parliament and the Council's agreed final version of Regulation (EU) 2023/857

On 8 June 2022, the European Parliament's plenary adopted a series of amendments to the Commission proposal for revising the ESR. The European Parliament's MEPs called for stricter regulation of GHG emissions in EU Member States including fewer options to exceed quotas in its adopted position on the ESR (European Parliament 2022c). While the Commission proposed to increase the mandatory GHG reduction 2030-target at EU level from 30% to 40%, now all EU Member States must reduce their GHG emissions with targets ranging between 10–50 % (European Parliament 2022c). MEPs also wanted to minimise the possibility to borrow emission allowances from the following year, by reducing the limit for borrowing compared to the proposal by the Commission. They also wanted to lower the limit for how much Member States can bank their emission allowances to the following years, and they requested restrictions on the possibility for Member States to trade allowances with other Member States (European Parliament 2022c). The report was adopted in the European Parliament with 437 votes in favour, 142 against and 40 abstentions (European Parliament 2022c).

On 29 June 2022, the Environment Council reached a general approach on the ESR proposal, agreeing to the increase of the EU-wide GHG emission reduction target of 40% compared to 2005, for the sectors not covered by the EU-ETS, among others. The Council also agreed that buildings and road transport sectors would continue to be covered under both, the new separate EU-ETS and the amended ESR, because these two sectors combined currently generate about 60% of the EU's GHG emissions (Council of the EU 2022a). Furthermore, the Council agreed to the increased national targets for each Member State, based on the Commission's proposal. The Council also increased the amount of annual emission quotas that can be transferred between Member States to 10% in the period between 2021 to 2025, and to 20% in respect of the years 2026 to 2030 (Council of the EU 2022a).

On 1 September 2022, the trilogue negotiations between the European Parliament and the Council started and on 8 November 2022, they reached a provisional agreement on the amendments to the ESR (Council of the EU 2022b). The revision of the ESR is one of the important and necessary changes in legislation towards making the 2050 European Green Deal's targets a reality and to deliver on the 2030 targets agreed in the European Climate Law.

On 14 March 2023, the European Parliament's plenary adopted the final version of Regulation (EU) 2023/857 for revising the ESR and on 28 March 2023, the Council adopted the ESR to enable the EU to reduce its GHG emissions (European Parliament 2023). Finally, on 26 April 2023, the Regulation (EU) 2023/857 was published and entered into force on 16 May 2023 (Regulation (EU) 2023/857).

Thereby, Regulation (EU) 2018/842 was amended by the Regulation (EU) 2023/857, laying down obligations of EU Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the EU's GHG emission

reduction target of reaching at least a reduction of 55% by 2030 (Regulation (EU) 2023/857). The regulation also lays down rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions.

Recital 9 of Regulation (EU) 2023/857 states that while the EU-ETS will apply to GHG emissions from maritime transport as well as from buildings, road transport and additional sectors, the scope of Regulation (EU) 2018/842 should be maintained and continue to include buildings and transport while excluding aviation and international maritime transport (Regulation (EU) 2023/857).

The main improvement of the revised ESR will be a strengthening of the national reduction targets and an increase of the EU-wide GHG emission reduction target for sectors covered by the ESR from 29% (EU-27) to 40% by 2030, based on 2005 levels for the sectors not covered by the EU-ETS, namely including road and domestic maritime transport, buildings, agriculture, waste, and small industries (European Commission 2022, Council of the EU n.d., Council of the EU 2023). As agreed by the Council and the Parliament, and based on the mentioned reasons, the amended ESR will continue to include the road transport and building sector's GHG emissions, although they will be also covered by a separate EU-ETS II system (European Parliament 2022a).

The amendments to the ESR also set national binding targets and annual emissions allocations for each Member State for the 2021-2030 period. The ESR's new national targets for individual Member States are expected to collectively contribute to an emission reduction at EU level, in the sectors covered by the ESR (European Commission n.d.b). The new amendments keep the increased national targets assigned to each Member State as proposed by the European Commission and adjust the existing flexibilities to meet those targets. The Parliament and Council agreed on an update of the GHG emission reduction

targets for Member States and in accordance with Article 4(3) of the ESR Regulation (EU) 2023/857, the EU Member States have new reduction targets, ranging between 10% and 50% compared to the 2005 levels as of 2023 (European Commission n.d.b).

Table 1: Member State GHG emission reductions in 2030 in relation to their 2005 levels, based on Article 4(3) of the amended ESR Regulation

Member State	Old target set in 2018	New target since 2023
Bulgaria	-0 %	-10 %
Romania	-2 %	-12,7 %
Croatia	-7 %	-16,7 %
Latvia	-6 %	-17 %
Poland	-7 %	-17,7 %
Hungary	-7 %	-18,7 %
Malta	-19 %	-19 %
Lithuania	-9 %	-21 %
Greece	-16 %	-22,7 %
Slovakia	-12 %	-22,7 %
Estonia	-13 %	-24 %
Czechia	-14 %	-26 %
Slovenia	-15 %	-27 %
Portugal	-17 %	-28,7 %
Cyprus	-24 %	-32 %
Spain	-26 %	-37,7 %
Ireland	-30 %	-42 %
Italy	-33 %	-43,7 %
Belgium	-35 %	-47 %
France	-37 %	-47,5 %
Netherlands	-36 %	-48 %
Austria	-36 %	-48 %
Denmark	-39 %	-50 %
Germany	-38 %	-50 %
Luxembourg	-40 %	-50 %
Finland	-39 %	-50 %
Sweden	-40 %	-50 %

(European Commission n.d.b)

The amended ESR recognises the different capacities of Member States to take action based on their GDP per capita and with adjustments made to take cost efficiency into account (European Commission n.d.b). The annual emission limits per year per Member State are calculated based on a trajectory system leading to the 2030 emission reduction targets and a set of adjustments established in Articles 4 and 10 of the Regulation (EU) 2023/857 (European Commission n.d.b). Furthermore, the Council and Parliament agreed on an update of the GHG emission reduction targets of the linear emission trajectory set for each Member State in 2025, which could lead to an adjustment of the annual emission allocations for the period 2026 to 2030 (Council of the EU 2022b).

Regarding the flexibilities to help the EU Member States to reach their targets, they are allowed to “bank and borrow” emission allocations. Regarding the years 2022 to 2029, Member States will be able to bank up to 25% of their annual emission allocations up to that year and use the unused allocation in subsequent years in the years 2022 to 2029 and until 2030. If a Member State’s emissions were lower in the year 2021 than their annual emission allocation for that year, Member States can bank up to 75% of their annual emission allocation for that year to subsequent years until 2030 (Council of the EU 2022b, Council of the EU n.d.).

Moreover, if the Member States exceed their national quota, they can also borrow allocations from the following year of up to 7,5% of their annual emission allocations as regards the years 2021 to 2025 and up to 5% as regards 2026 to 2030 (Council of the EU 2022b). They will also be able to buy and sell emission allocations from/to other Member States. From 2021 to 2025, Member States will be able to buy and sell up to 10% of their annual emissions allocations and from 2026 to 2030, 15% of their emission allocations (Council of the EU 2022b, Council of the EU n.d.).

In addition to the EU Member States, Iceland and Norway have agreed to implement the ESR and commit to binding 2030 emission reduction targets. The EU legal act is marked as EEA (European Economic Area) relevant by the EFTA and is currently under scrutiny for incorporation into the EEA Agreement by Iceland, Liechtenstein, and Norway (EFTA n.d.). Once incorporated into the EEA agreement, the countries will apply the same rules and have the same obligations and flexibilities as EU Member States, to allow for a fair and cost-efficient achievement of their targets (European Commission n.d.b).

While the update of Regulation (EU) 2018/842 under Regulation (EU) 2023/857 reflects the increased ambition enshrined in the European Climate Law, also the system of trajectories toward the 2030 target had to be revised in parallel to the ESR revision. Accordingly, the Commission amended the Commission Implementing Decision (EU) 2020/2126 and published the Commission Implementing Decision (EU) 2023/1319 of 28 June 2023 amending Implementing Decision (EU) 2020/2126. Thereby, the EU Member States' number of annual emission allocations (AEAs) for the period from 2023 to 2030 was revised.

The Commission Implementing Decision (EU) 2023/1318 correcting Implementing Decision (EU) 2022/1953 on GHG emissions covered by Decision No 406/2009/EC of the European Parliament and of the Council for the year 2020 for each Member State and the Commission Implementing Decision (EU) 2023/1319 to revise the Member States' annual emission allocations for the period from 2023 to 2030 entered into force on 19 July 2023. Thereby, the legislative process to implementing the necessary amendments to the 2018 ESR, amended by the Regulation (EU) 2023/857 on binding annual GHG emission reductions by Member States from 2021 to 2030 was completed (Commission Implementing Decision (EU) 2023/1319).

4. Conclusion

Based on the amendments to the Regulation (EU) 2018/842 under Regulation (EU) 2023/857, a strengthened EU-wide GHG emission reduction target is introduced with an increase of eleven percentage points to 40%, based on 2005 levels for the sectors covered under the ESR. This mainly includes the sectors buildings, road and domestic maritime transport, agriculture, waste, and small industries, although road transport and buildings will be covered by a separate EU-ETS II. These sectors will continue to be covered by the ESR as it would be premature to leave the task to decrease the GHG emissions from buildings and road transport exclusively to the new separate EU-ETS II.

Furthermore, also the EU Member States' individual targets are based on the Member States' GDP per capita, with adjustments made to take cost efficiency into account, thereby recognising the countries' different possibilities.

Under the new legislation Regulation (EU) 2023/857, limits have been introduced on how many GHG emissions EU Member States can save from previous years or borrow from future years as well as on how much they can trade allocations with other Member States. To increase the transparency on the EU Member States' action, the European Commission will make information publicly available on the Member States' national actions, as requested by Parliament.

The amendments of the Regulation (EU) 2018/842 under Regulation (EU) 2023/857 are expected to strike a right balance between the need for EU Member States to be flexible in achieving their GHG emission reduction targets under the ESR while ensuring a fair transition toward the net-zero emission target in 2050.

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