

# Effort Sharing Regulation (ESR)

## Loopholes hollow out increased national climate targets

### Context

The Effort Sharing Regulation (ESR) sets binding national climate targets for the emissions of road transport, buildings, agriculture, waste and small industries. These sectors cover about 57% of the total EU-27 greenhouse gas emissions. ESR targets are different for each country, depending on their GDP per capita and the cost-effectiveness of reducing emissions in each country. With its intention to extend the EU's carbon market (ETS) to road transport and buildings, the Commission contemplated removing these sectors from the ESR or repealing the ESR altogether.

### What has the European Commission proposed?

The Commission has proposed to maintain the ESR and to increase the EU-wide emission reduction target for the ESR sectors from -30% (compared to 2005) to -40%. National climate targets range from -50% for countries like Luxembourg and Germany, to -10% for Bulgaria. As such, the 'spread' between countries remains 40 percentage points.

To help countries achieve their ESR targets, the regulation contains several so-called

'flexibilities'. For example, richer member states may choose to do more in the ETS and less in the ESR sectors and all countries can make use of creative accounting to reduce their overall effort. Member states are also able to offset part of their emissions with credits from the land use sector (LULUCF). Additionally, if a country overachieves on its LULUCF target, a new solidarity offsetting mechanism allows for that surplus to be transferred to underachieving countries under the ESR.

### What's good? What's not?

It's good that the scope of the ESR was maintained so climate action in the road transport sector is not left up to the market. Each member state now needs to contribute to the EU's increased 2030 climate target with new national climate measures, such as ending subsidies for polluting company cars, and support for ambitious measures at EU level which will help them achieve their increased target.

But the targets are more stringent on paper than in reality. All the old loopholes that allow countries to escape their climate responsibilities remain. There are also still no fines for missing the targets. Finally, the Commission is potentially creating a carbon bubble in 2026. If the economic recovery from Covid-19 leads to an increase in

emissions, that will be baked into the targets.

## How should it be improved?

- The 2021-2030 total emissions budget should be reduced by revising the trajectory. At the very least, the revision of the trajectory in 2026 should only happen if the economic recovery from Covid-19 leads to lower emissions than expected, in order to avoid member states living off a Covid related surplus for the rest of the decade.
- Compliance under the ESR needs to be improved. There should be a monetary consequence if member states breach their annual emissions allocations (AEAs), as is already the case under the ETS and car CO2 legislation. The corrective action plans should become more transparent, as should the Commission's response to these and the way member states take that into account. Member States should also be required to undertake a mandatory NECP review if there is a breach of their AEA in two consecutive years.
- The 'flexibility' with the LULUCF should be removed. Net removals in the land use sector cannot be considered directly equivalent, tonne-for-tonne, to emission reductions in other sectors.
- The 'safety reserve' should be removed. The formula for distributing national targets already takes account of different national circumstances, making such loopholes obsolete.
- A European Project Mechanism should be set up to encourage AEA trade between Member States, ensuring emissions reductions take place where they are most cost-effective.
- Member states should be incentivised to overachieve on their AEAs, for example by making extra revenues of the new ETS for road transport and buildings available to overachieving countries. Under such a system, poorer member states could receive a higher 'bonus' than richer member states

## What next?

The proposal now needs to be negotiated with the Council and the European Parliament. It is essential that these negotiations close as soon as possible, so countries can readjust their national measures to their new 2030 climate target from 2023 at the latest.

## Further information

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