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What is the Effort Sharing Regulation and why does its revision matter?

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1. What is the Effort Sharing Regulation?

The Effort Sharing Regulation, or ESR, is a crucial component of the EU's climate policy architecture because it sets out the amount of greenhouse gas (GHG) emissions reduction each Member State (plus Iceland and Norway) must achieve for the period between 2021-2030. The Regulation breaks down the EU's collective 2030 emissions reduction target into specific national targets for each Member State, shared out according to GDP. However, the ESR does not apply to the whole economy; it only requires Member States to take responsibility for achieving emissions reductions in specific sectors – namely buildings, transport, agriculture, waste, and some sections of industry. The ESR does not cover, for example, emissions from power stations or energy intensive steel, cement and chemical works. The Regulation only imposes national targets until 2030. National climate targets are expressed as an end point in a linear reduction trajectory. The Commission then adopts a separate measure setting out the 'annual emissions allowances' (AEAs) – effectively the emissions reductions required by each country to achieve its 2030 target. In addition to targets, the Regulation enshrines the rules that govern flexibilities allowed to governments in meeting their emissions reductions, including processes for banking, borrowing, buying, selling AEAs between Member States and a safety reserve. The ESR also contains powers for the Commission to control national compliance with targets.

2. Why is the Effort Sharing Regulation being revised?

The ESR is being revised as part of the 'Fit for 55' review to take account of the EU's decision to commit to the Paris Agreement objective of achieving climate neutrality by 2050. The revision of the ESR is therefore a crucial opportunity to put in place the arrangements to ensure sufficient national climate action is taken to put the Union onto a pathway consistent with net zero by 2030. When the EU committed to climate neutrality the EU's institutions also recognised the need to increase the Union's 2030 target. This has now been confirmed as requiring a reduction of 55% from 1990 levels, a substantial increase in ambition from the original target of a 40% reduction. The Commission was also mandated to propose how the EU's wider climate acquis (i.e., policy framework) should be amended to ensure delivery of the Union's new 2030 target. As part of its 'Fit for 55' package of proposals the Commission has proposed that the sectors covered by the ESR should deliver greater emissions mitigation – specifically by raising their existing 30% target to 40% from 2005 levels. This means national climate targets must also increase under the ESR. The Commission is also proposing to introduce two new flexibilities for Member States to support achievement of ESR targets. The first is to allow nine Member States the choice to use a limited amount of EU Emissions Trading Scheme (EU ETS) allowances for offsetting emissions in the ESR sectors. These are Austria, Belgium, Denmark, Finland, Ireland, Luxemburg, the Netherlands, Malta, and Sweden – all have either adopted significantly higher national climate targets than the EU average or did not allocate free allowances under the EU ETS in 2013. The second is to allow Member States to use a limited amount of 'credits' accumulated under the EU's Land Use, Land Use Change and Forestry Regulation (LULUCF) during the period 2021-2030 towards achievement of their ESR targets - the rationale being to stimulate greater climate action in the land use sector. 'Credits' refer to amounts of extra emissions removals achieved (as opposed to 'debits' – in effect, extra emissions reductions). While all member states are eligible, it is proposed that countries with a higher share of GHG emissions from agriculture (including Ireland) will have a higher level of access to this flexibility in recognition of the challenges associated with mitigating emissions from this particular sector.

3. Why does the revision of the Effort Sharing Regulation matter?

The ESR covers almost 60% of total domestic EU greenhouse gas emissions. It is also the only EU measure that explicitly requires state leadership on climate action, albeit only within specific sectors. The transformation required to achieve climate neutrality across Europe will involve change on a societal scale and at an unprecedented pace. Meeting this challenge will, by definition, be a deeply political process and one that cannot be outsourced to market mechanisms. EU rules on national climate action must clearly position state leadership as indispensable to effective climate action for 2030 and in the post-2030 period. While market measures such as the EU Emissions Trading Scheme play an important role in driving change, it is essential that the revision of EU climate rules does not incentivise national governments to step back from climate action and to perceive climate neutrality as the responsibility of markets (as a result of EU ETS expansion) or the responsibility of other more wealthy or larger countries. The responsibility to provide effective political leadership on national climate action must be robustly 'owned' by each Member State.

4. How should the Commission's proposal to revise the ESR be strengthened to ensure Member States deliver sufficient climate action?

With the support of the European Climate Foundation, the Environmental Justice Network Ireland's Climate Governance Observatory is working in close co-ordination with civil society partners in Brussels and across the EU to develop proposals for legislative amendments to the Commission's proposals and supporting policy briefings explaining why it makes sense to support these changes. Based on research undertaken to date, we have identified 5 key priorities for revision of the ESR, all of which are designed to ensure national action is compatible with the scale of national ambition required to get the Union on track for net zero. These 5 key priorities are to:

(1) Ensure the integrity of the EU's 2030 target by closing flexibilities and loopholes that would undermine it and reward a failure to achieve mandatory national targets.
(2) Establish post-2030 national climate targets for Member States, clarifying the date by which each country will achieve zero GHG emissions for ESR sectors and imposing a duty to achieve net negative emissions from 2051 onwards. Doing so will level up political ownership of the climate neutrality objective in countries that have not already committed to the Paris objective and ensure transparency about national convergence with the climate neutrality objective.
(3) Guarantee more robust national accountability for compliance with 2030 targets through the introduction of national emission budgets, duties to amend National Energy and Climate Plans where AEAs are breached in successive years and by granting expanded access to justice rights to NGOs and citizens to empower them to challenge non-compliance with any aspect of the ESR at national level.
(4) Change the name of the ESR (e.g., to the 'Climate Action Regulation' or equivalent) to end the negative and inaccurate framing of national climate action as an 'effort' or a burden.
(5) Use the revision of the ESR as a vehicle to amend the Governance Regulation. This Regulation has been excluded from the Fit for 55 review process, which is a mistake because it means EU rules on national climate planning for 2030 and 2050 have not been adjusted to take account of the far higher ambition and far greater level of public support needed in each country to ensure each Member State contributes in a meaningful way to achieving net zero across Europe.

5. What is the relationship between the ESR and EU ETS?

The EU institutions consider the EU's ETS to be a major leading-edge mechanism in combatting climate change. Although it plays an undeniably significant role at present, non-ETS sectors that fall outside of the ETS scheme amount to around 60% of total domestic EU emissions. The ESR not only covers this substantial 60% of emissions, it is also the EU's only instrument requiring national governments to meet specific GHG emissions reductions targets. Consequently, the ESR (alongside the Governance Regulation and LULUCF) plays a pivotal role in ensuring national commitment to, and therefore political leadership on climate action. Delivering the societal transformation required to achieve the EU's climate neutrality objective will need both the state and markets to be mobilised effectively – therefore it is crucial that the Fit for 55 process creates legal frameworks that send the right signals to both national governments and to markets.

6. What does the EU ETS do that the Effort Sharing Regulation doesn't?

The EU ETS applies an important 'cap and trade' system to thousands of substantial installations that emit GHGs in the EU. The cap and trade system is designed to drive emissions down by placing a limit (i.e., a 'cap') on the maximum amount of GHGs that individual installations (as opposed to Member States) are permitted to release. The limit is steadily reduced over time, bringing down emissions in a gradual way. GHGs are converted to emissions allowances within the level permitted by the cap. The allowances have a carbon price and can be traded between installations. The scheme is administered by the Commission directly, reducing the active role played by Member States in this area. The ETS currently covers installations that require heavy energy usage, including power stations and industrial installations like steelworks, cement works and oil refineries. As part of the Fit for 55 package, the Commission is proposing expanding the ETS to cover emissions from fuels used in road transport and buildings because it is considered that more steep emissions reductions will be required in these sectors - the so-called 'ETS 2' proposal. It is proposed that a cap and trade system would be applied to fuel suppliers to these sectors - rather than to households and consumers directly; in parallel it is proposed that a Climate Action Social Fund would also be established to mitigate social hardship caused when fuel suppliers pass on the increased costs to consumers – in effect to support a just transition.

7. Why is the Governance Regulation relevant to the Fit for 55 review?

The Governance Regulation is a crucial component of the EU's policy framework governing national climate action. Like the ESR, the Governance Regulation focuses directly on action by Member States (unlike the EU ETS which is administered by the Commission and applies directly to industrial installations). The ESR sets down national GHG emission reduction targets for Member States whereas the Governance Regulation sets down common rules for national climate planning (National Energy and Climate Plans for 2030, NECPs and Long-Term Strategies, LTSs for 2050). These plans create the process whereby each Member State must clarify the policy framework they will implement to meet their ESR (and energy) targets. The plans also require governments to collate data on the social justice implications of national climate action. The Governance Regulation also controls how Member States report on their GHG emissions reductions under the ESR. In effect, the Governance Regulation and the ESR are co-equal pieces of legislation governing the state's role in delivering climate action. Together they set out the EU's arrangements for national climate governance. The central difference between these two pieces of legislation is that whereas the Governance Regulation applies to the whole economy and includes a focus on the long-term climate objective - the ESR only applies to 60% of national emissions and is confined to a short term (2030) climate objective. The rules contained in the Governance Regulation therefore have a fundamental role in driving the quality and ambition of climate policy at national level and the likelihood that national climate targets will be achieved. The Governance Regulation was adopted before the EU Climate Law was adopted and before the EU's 2030 and 2050 targets were significantly raised. By excluding the Governance Regulation from the Fit for 55 review the Union has missed an important opportunity to ensure EU rules on national climate action are fit for purpose and meet the new levels of ambition committed to by the EU. The inclusion of amendments to the Governance Regulation into the revised ESR is therefore essential so that the Regulation is also rendered fit for zero.

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