

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2023/857 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 April 2023

amending Regulation (EU) 2018/842 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement, and Regulation (EU) 2018/1999

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) The Paris Agreement ⁽⁴⁾, adopted on 12 December 2015 under the United Nations Framework Convention on Climate Change (UNFCCC) (the 'Paris Agreement'), entered into force on 4 November 2016. The Parties to the Paris Agreement have agreed to hold the increase in the global average temperature well below 2 °C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1,5 °C above pre-industrial levels. That commitment has been reinforced with the adoption under the UNFCCC of the Glasgow Climate Pact on 13 November 2021, in which the Conference of the Parties to the UNFCCC, serving as the meeting of the Parties to the Paris Agreement, recognises that the impacts of climate change will be much lower at a temperature increase of 1,5 °C compared with 2 °C, and resolves to pursue efforts to limit the temperature increase to 1,5 °C.
- (2) The need for action to reduce greenhouse gas emissions is becoming increasingly urgent, as stated by the Intergovernmental Panel on Climate Change (IPCC) in its reports of 7 August 2021 entitled 'Climate change 2021: The Physical Science Basis', of 28 February 2022 entitled 'Climate Change 2022: Impacts, Adaptation and Vulnerability' and of 4 April 2022 entitled 'Climate Change 2022: Mitigation of Climate Change'. The Union should therefore address that urgency by stepping up its efforts.

⁽¹⁾ OJ C 152, 6.4.2022, p. 189.

⁽²⁾ OJ C 301, 5.8.2022, p. 221.

⁽³⁾ Position of the European Parliament of 14 March 2023 (not yet published in the Official Journal) and decision of the Council of 28 March 2023.

⁽⁴⁾ OJ L 282, 19.10.2016, p. 4.

- (3) The Union has in place a regulatory framework to achieve the 2030 greenhouse gas emission reduction target of at least 40 % that was endorsed, before the entry into force of the Paris Agreement, by the European Council in 2014. That regulatory framework consists, inter alia, of Directive 2003/87/EC of the European Parliament and of the Council ⁽⁵⁾ establishing a system for greenhouse gas emission allowance trading within the Union (EU ETS), Regulation (EU) 2018/841 of the European Parliament and of the Council ⁽⁶⁾ requiring Member States to balance greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF), and Regulation (EU) 2018/842 of the European Parliament and of the Council ⁽⁷⁾ establishing national targets for reduction of greenhouse gas emissions by 2030 in the sectors which are not covered by Directive 2003/87/EC or by Regulation (EU) 2018/841.
- (4) The communication of the Commission of 11 December 2019 on ‘The European Green Deal’ provides a starting point for the achievement of the Union’s climate-neutrality objective at the latest by 2050 and the aim of achieving negative emissions thereafter as laid down in Article 2(1) of Regulation (EU) 2021/1119 of the European Parliament and of the Council ⁽⁸⁾ (‘European Climate Law’). The European Green Deal combines a comprehensive set of mutually reinforcing measures and initiatives aimed at achieving climate neutrality in the Union by 2050 and sets out a new growth strategy that aims to transform the Union into a fair and prosperous society, with a modern, resource-efficient and competitive economy, where economic growth is decoupled from resource use. It also aims to protect, conserve and enhance the Union’s natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. At the same time, that transition has gender equality aspects as well as a particular impact on some disadvantaged and vulnerable groups, such as older people, persons with disabilities and persons with a minority racial or ethnic background. It must therefore be ensured that the transition is just and inclusive, leaving no one behind.
- (5) On 16 June 2022, the Council adopted a Recommendation on ensuring a fair transition towards climate neutrality ⁽⁹⁾, in which it highlighted the need for accompanying measures and for paying particular attention to supporting those regions, industries, micro, small and medium-sized enterprises, workers, households and consumers that will face the greatest challenges. That Recommendation encourages Member States to consider a set of measures in the areas of employment and labour market transitions, job creation and entrepreneurship, health and safety at work, public procurement, taxation and social protection systems, essential services and housing, as well as, inter alia, with a view to strengthening gender equality, education and training.
- (6) Through the adoption of Regulation (EU) 2021/1119, the Union has enshrined in legislation a binding objective of economy-wide climate neutrality by 2050, thus reducing emissions to net zero by that date, and the aim of achieving negative emissions thereafter. That Regulation also establishes a binding Union domestic reduction target for net greenhouse gas emissions (emissions after deduction of removals) of at least 55 % compared to 1990 levels by 2030. Furthermore, it establishes that the contribution of net removals to the Union 2030 climate target is to be limited to 225 million tonnes of CO₂ equivalent.

⁽⁵⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽⁶⁾ Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework, and amending Regulation (EU) No 525/2013 and Decision No 529/2013/EU (OJ L 156, 19.6.2018, p. 1).

⁽⁷⁾ Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ L 156, 19.6.2018, p. 26).

⁽⁸⁾ Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (‘European Climate Law’) (OJ L 243, 9.7.2021, p. 1).

⁽⁹⁾ Council Recommendation of 16 June 2022 on ensuring a fair transition towards climate neutrality (OJ C 243, 27.6.2022, p. 35).

- (7) In order to implement the commitments laid down in Regulation (EU) 2021/1119 as well as the Union's contributions under the Paris Agreement, the Union regulatory framework for achieving the 2030 greenhouse gas emission reduction target should be adapted.
- (8) Regulation (EU) 2018/842 lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's current greenhouse gas emission reduction target of 30 % below 2005 levels in 2030 in the sectors covered by Article 2 of that Regulation. It also lays down rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions.
- (9) While emissions trading will also apply to greenhouse gas emissions from maritime transport as well as from buildings, road transport and additional sectors, the scope of Regulation (EU) 2018/842 should be maintained. Regulation (EU) 2018/842 should therefore continue to apply to the greenhouse gas emissions from domestic navigation, but not to those from international navigation. The inclusion of installations for the incineration of municipal waste in Annex I to Directive 2003/87/EC, for the purposes of Articles 14 and 15 of that Directive, should not change the scope of Regulation (EU) 2018/842 either. The greenhouse gas emissions of a Member State within the scope of Regulation (EU) 2018/842 to be taken into account for compliance checks will continue to be determined upon completion of inventory reviews in accordance with Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽¹⁰⁾.
- (10) In line with the 2006 IPCC guidelines for national greenhouse gas inventories, CO₂ emissions from biomass for energy are reported under land use, land use change and forestry inventory categories under Regulation (EU) 2018/841. To avoid double counting, greenhouse gas emissions from biofuels, bioliquids and biomass fuels are zero-rated for the purpose of determining greenhouse gas emissions under Regulation (EU) 2018/842. In order to take into account the effects of indirect land use change and to promote the sustainability of such fuels, it is important that all Member States fully implement Directive (EU) 2018/2001 of the European Parliament and of the Council ⁽¹¹⁾, including its sustainability and greenhouse gas emission savings criteria for such fuels.
- (11) In some sectors, greenhouse gas emissions have either increased or remained stable. In its communication of 17 September 2020 on 'Stepping up Europe's 2030 climate ambition – Investing in a climate-neutral future for the benefit of our people', the Commission indicated that the increased 2030 overall greenhouse gas emission reduction target can only be achieved with the contribution of all sectors.
- (12) In its conclusions of 11 December 2020, the European Council stated that the new 2030 greenhouse gas emission reduction target will be delivered collectively by the Union in the most cost-effective manner possible, that all Member States will participate in that effort, taking into account considerations of fairness and solidarity, while leaving no one behind, and that the new 2030 target needs to be achieved in a way that preserves the Union's competitiveness and takes account of Member States' different starting points and specific national circumstances and greenhouse gas emission reduction potential, including those of island Member States and islands, as well as efforts made.
- (13) In order to achieve the new Union 2030 target of reducing net greenhouse gas emissions by at least 55 % compared to 1990 levels, the sectors covered by Regulation (EU) 2018/842 will need to reduce their greenhouse gas emissions progressively until they reach – 40 % in 2030 compared to 2005 levels. Regulation (EU) 2018/842 also contributes to achieving the objectives of the Paris Agreement, as well as the Union's objective of climate neutrality at the latest by 2050 under Regulation (EU) 2021/1119, the achievement of which requires convergence of all Member States' efforts over time, while taking into account specific national circumstances.

⁽¹⁰⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

⁽¹¹⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

- (14) The greenhouse gas emission reduction target for 2030 laid down in Regulation (EU) 2018/842 needs to be revised for each Member State. The methodology used for the revision of the 2030 national greenhouse gas emission reduction targets should be the same as the one that was used when Regulation (EU) 2018/842 was adopted, where the national contributions were determined in consideration of the different capacities and cost-efficiency opportunities in Member States so as to ensure a fair and balanced distribution of the effort. The greenhouse gas emission reduction target for each Member State in 2030 should thus be determined in relation to the level of its 2005 greenhouse gas emissions covered by that Regulation, as reviewed pursuant to Article 4(3) thereof, excluding verified greenhouse gas emissions from installations that operated in 2005 and which were only included in the EU ETS after 2005.
- (15) As a consequence, as from the year of entry into force of this Regulation, new binding national limits, expressed in annual emission allocations, are necessary. Those limits will progressively lead to the 2030 greenhouse gas emission reduction target of each Member State. The annual limits for the years preceding the year of entry into force of this Regulation set out in Commission Implementing Decision (EU) 2020/2126 ⁽¹²⁾ are maintained.
- (16) The COVID-19 pandemic and Russia's war of aggression against Ukraine are impacting the Union's economy and the level of its greenhouse gas emissions to a degree that cannot yet be fully quantified. On the other hand, the Union is deploying its largest stimulus package ever and accelerating the transition away from fossil fuels, which also has a potential impact on the level of greenhouse gas emissions. Due to those uncertainties and other unforeseen events having an impact on greenhouse gas emissions, it is appropriate to review the emissions data in 2025 and, if necessary, update the annual emission allocations in 2025 for the years 2026 to 2030. That update should be based on a comprehensive review of the national inventory data carried out by the Commission in order to determine the average greenhouse gas emissions of each Member State in the years 2021, 2022 and 2023.
- (17) In accordance with Regulation (EU) 2021/1119, priority should be given to reductions in direct greenhouse gas emissions, which will have to be complemented by increased carbon removals in order to achieve climate neutrality. Regulation (EU) 2021/1119 recognises that carbon sinks include natural and technological solutions. It is important that a Union scheme for the certification of safely and permanently stored carbon removals obtained through technological solutions be put in place, offering clarity for Member States and market operators to enhance such carbon removals. When such a certification scheme is in force, an analysis can be made about accounting for such carbon removals under Union law.
- (18) In order to incentivise earlier action and further ensure environmental integrity, it is necessary and appropriate to lower the ceilings for borrowing and banking of annual emission allocations for the whole period from 2021 to 2030. On the other hand, Member States should be able to reduce progressively their greenhouse gas emissions and reach their increased national greenhouse gas emission reduction targets for 2030 in a cost-effective manner. In view of the new and more stringent annual emission allocations required by this Regulation, it is appropriate to increase the existing ceilings on transfers of annual emission allocations between Member States. The possibility of transferring annual emission allocations promotes cooperation between Member States, allowing them to achieve their greenhouse gas emission reduction targets cost-effectively, while preserving environmental integrity. The transparency of such transfers should be ensured, so that they are carried out in a manner that is mutually convenient, including by means of auctioning, by the use of market intermediaries acting on an agency basis, by way of bilateral arrangements or by the use of an electronic interface aiming to facilitate the exchange of information on intended transfers and to reduce transaction costs.

⁽¹²⁾ Commission Implementing Decision (EU) 2020/2126 of 16 December 2020 on setting out the annual emission allocations of the Member States for the period from 2021 to 2030 pursuant to Regulation (EU) 2018/842 of the European Parliament and of the Council (OJ L 426, 17.12.2020, p. 58).

Member States are already required to report the summary information on concluded transfers in accordance with Commission Implementing Regulation (EU) 2020/1208⁽¹³⁾. After compilation by the Commission, a summary of the information provided is made available within three months of receipt of the reports from Member States, in electronic form, providing the range of prices paid per annual emission allocations transaction. In addition, within the two periods between the publication of the implementing acts referred to in Article 38(4) of Regulation (EU) 2018/1999 and the start of the compliance check procedure, the Member States can report to the Commission on the 15th of each month on concluded transfers. Moreover, in order to facilitate the exchange of information on intended transfers, Member States are invited to continually update the relevant information. A summary of the information received is compiled by the Commission and made available in a timely manner in electronic form. To improve transparency, before any effective transfer, Member States should inform the Climate Change Committee established by Regulation (EU) 2018/1999 of their intention to proceed with a transfer of part of their annual emission allocation for a given year. It is therefore appropriate to amend Regulation (EU) 2018/1999.

- (19) For certain Member States, it is possible to have a limited cancellation of EU ETS emission allowances taken into account for the purposes of compliance with Regulation (EU) 2018/842 (the 'EU ETS flexibility'). Of those Member States that are eligible, two have not made use of the EU ETS flexibility and one has not made full use of it. In view of the increased ambition level set by this Regulation, those Member States should be granted a new opportunity to make use or further use of that flexibility. It is therefore appropriate to set a new deadline by which it is possible for those Member States to notify the Commission of an intention to make use or further use of that flexibility. In addition, given the particular structure of Malta's economy, the national greenhouse gas emission reduction target of that Member State based on gross domestic product per capita is significantly above its cost-effective reduction potential. It is therefore appropriate to increase Malta's access to that flexibility, without compromising the Union's greenhouse gas emission reduction target for 2030.
- (20) In addition to the EU ETS flexibility, it is possible for a limited quantity of net removals and net emissions from LULUCF to be taken into account for Member States' compliance under Regulation (EU) 2018/842 (the 'LULUCF flexibility'). In order to ensure that sufficient mitigation efforts are deployed up to 2030, it is appropriate to limit the use of the LULUCF flexibility by separating the use of the LULUCF flexibility into two separate time periods, each capped by a limit corresponding to half of the maximum amount of total net removals set out in Annex III to Regulation (EU) 2018/842. It is also appropriate to bring the title of that Annex into line with Regulation (EU) 2018/841 following its amendment by Commission Delegated Regulation (EU) 2021/268⁽¹⁴⁾. As a consequence, there is no longer a need for Regulation (EU) 2018/842 to empower the Commission to adopt delegated acts to amend the title of its Annex III. Article 7(2) of Regulation (EU) 2018/842 should therefore be deleted.
- (21) Where the Commission finds that a Member State is not making sufficient progress towards meeting its annual emission levels under Regulation (EU) 2018/842, the corrective action mechanisms under that Regulation should be strengthened in order to allow swift and effective action. It is therefore appropriate to revise the requirements which apply to corrective action plans to be submitted by Member States to the Commission in the case of failure to make sufficient progress.
- (22) The Union and the Member States are parties to the United Nations Economic Commission for Europe Convention on access to information, public participation in decision-making and access to justice in environmental matters⁽¹⁵⁾ (the 'Aarhus Convention'). Public scrutiny and access to justice are essential elements of the democratic values of the Union and tools to safeguard the rule of law.

⁽¹³⁾ Commission Implementing Regulation (EU) 2020/1208 of 7 August 2020 on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) 2018/1999 of the European Parliament and of the Council and repealing Commission Implementing Regulation (EU) No 749/2014 (OJ L 278, 26.8.2020, p. 1).

⁽¹⁴⁾ Commission Delegated Regulation (EU) 2021/268 of 28 October 2020 amending Annex IV to Regulation (EU) 2018/841 of the European Parliament and of the Council as regards the forest reference levels to be applied by the Member States for the period 2021-2025 (OJ L 60, 22.2.2021, p. 21).

⁽¹⁵⁾ OJ L 124, 17.5.2005 p. 4.

- (23) The Union's climate action should make use of the latest science. The advice of the European Scientific Advisory Board on Climate Change, established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council ⁽¹⁶⁾, should therefore be considered in the context of Regulation (EU) 2018/842.
- (24) In view of the introduction of a strengthened compliance regime in Regulation (EU) 2018/841 as of 2026, it is appropriate to abolish the deduction of the greenhouse gas emissions generated by each Member State in the period from 2026 to 2030 in the LULUCF sector in excess of its removals. Article 9(2) of Regulation (EU) 2018/842 should therefore be amended accordingly.
- (25) It is appropriate that the review of Regulation (EU) 2018/842 in 2024 take account of the Union's greenhouse gas emission reduction targets under Regulation (EU) 2021/1119, the Union's commitment to the objectives of the Paris Agreement and any relevant commitments resulting from the Conferences of the Parties to the UNFCCC. Moreover, that review should include a reduction pathway for greenhouse gas emissions that is compatible with the binding objective of climate neutrality in the Union by 2050 under Regulation (EU) 2021/1119.
- (26) Non-CO₂ greenhouse gas emissions, such as methane, nitrous oxide and fluorinated gases, account for over 20 % of the Union's greenhouse gas emissions. Non-CO₂ greenhouse gas emissions are covered by Regulation (EU) 2018/842 and therefore will necessarily be part of the measures that Member States will put in place in order to comply with their increased 2030 greenhouse gas emission reduction targets under this Regulation. By 30 June 2023, Member States are to submit a draft update of their integrated national energy and climate plans to the Commission. The Commission will issue guidance in that respect, including to encourage Member States to set out targets and policies to reduce methane emissions. Likewise, Member States are to assess whether their strategic plans under the common agricultural policy should be revised to reflect the increased ambition in Regulation (EU) 2018/842 introduced by the amendments thereto through this Regulation. The Commission will include information on the results obtained by the combination of Union and national efforts in relation to non-CO₂ greenhouse gas emissions in the annual reports under Article 29(5) of Regulation (EU) 2018/1999. The Commission is also to assess draft integrated national energy and climate plans and can issue recommendations to Member States that do not make sufficient progress. The Commission will, in the context of the review of Regulation (EU) 2018/841, assess the current trends and future projections of greenhouse gas emissions from agriculture as well as regulatory options to ensure their consistency with the objective of achieving long-term greenhouse gas emission reductions in all sectors of the economy in accordance with the Union's climate-neutrality objective and the Union's intermediary climate targets set out in Regulation (EU) 2021/1119. When reviewing Regulation (EU) 2018/842, the Commission will assess how all sectors covered by that Regulation contribute to the reduction of greenhouse gas emissions, including in particular the reduction achieved as regards non-CO₂ greenhouse gas emissions, also in sectors other than agriculture.
- (27) Since the objectives of this Regulation, namely to adjust, in light of Regulation (EU) 2021/1119, the obligations of Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's target of reducing its greenhouse gas emissions and to contribute to achieving the objectives of the Paris Agreement, cannot be sufficiently achieved by the Member States but can rather, by reason of their scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (28) Regulations (EU) 2018/842 and (EU) 2018/1999 should therefore be amended accordingly,

⁽¹⁶⁾ Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21.5.2009, p. 13).

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2018/842

Regulation (EU) 2018/842 is amended as follows:

- (1) Article 1 is replaced by the following:

Article 1

Subject matter

This Regulation lays down obligations on Member States with respect to their minimum contributions for the period from 2021 to 2030 to fulfilling the Union's target of reducing its greenhouse gas emissions by 40 % below 2005 levels in 2030 in the sectors covered by Article 2 of this Regulation. It contributes to the long-term target of climate neutrality in the Union at the latest by 2050, with the aim of achieving negative emissions thereafter. It thereby contributes to achieving the objectives of Regulation (EU) 2021/1119 of the European Parliament and of the Council (*) ('European Climate Law') and the Paris Agreement. This Regulation also lays down rules on determining annual emission allocations and for the evaluation of Member States' progress towards meeting their minimum contributions.

(*) Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 ('European Climate Law') (OJ L 243, 9.7.2021, p. 1).;

- (2) in Article 2, paragraph 1 is replaced by the following:

'1. This Regulation applies to the greenhouse gas emissions from IPCC source categories of energy, industrial processes and product use, agriculture and waste as determined pursuant to Regulation (EU) 2018/1999 of the European Parliament and the Council (*), excluding greenhouse gas emissions from the activities listed in Annex I to Directive 2003/87/EC, other than the activity 'maritime transport' and activities only listed therein for the purposes of Articles 14 and 15 of that Directive.

(*) Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).;

- (3) Article 4 is amended as follows:

- (a) paragraphs 1 to 4 are replaced by the following:

'1. Each Member State shall, in 2030, limit its greenhouse gas emissions at least by the percentage set for that Member State in column 2 of Annex I in relation to its greenhouse gas emissions in 2005, determined pursuant to paragraph 3 of this Article.

2. Subject to the flexibilities provided for in Articles 5, 6 and 7 of this Regulation and to the adjustment pursuant to Article 10(2) of this Regulation, and taking into account any deduction resulting from the application of Article 7 of Decision No 406/2009/EC, each Member State shall ensure that its greenhouse gas emissions:

- (a) do not exceed, in the years 2021 and 2022, the limit defined by a linear trajectory, starting on the average of that Member State's greenhouse gas emissions in 2016, 2017 and 2018, as set out pursuant to paragraph 3 of this Article, and ending in 2030 at the limit set for that Member State in column 1 of Annex I to this Regulation; the linear trajectory of a Member State shall start either at five-twelfths of the distance from 2019 to 2020 or in 2020, whichever results in a lower annual emission allocation for that Member State;

- (b) do not exceed, in the years 2023, 2024 and 2025, the limit defined by a linear trajectory, starting in 2022 at the annual emission allocation for that Member State, as set out pursuant to paragraph 3 of this Article for that year, and ending in 2030 at the limit set for that Member State in column 2 of Annex I to this Regulation;
 - (c) do not exceed, in the years 2026 to 2030, the limit defined by a linear trajectory, starting on the average of that Member State's greenhouse gas emissions in 2021, 2022 and 2023, as submitted by that Member State pursuant to Article 26 of Regulation (EU) 2018/1999 and in accordance with paragraph 3 of this Article, and ending in 2030 at the limit set for that Member State in column 2 of Annex I to this Regulation; the linear trajectory of a Member State shall start at nine-twelfths of the distance from 2023 to 2024.
3. The Commission shall adopt implementing acts setting out the annual emission allocations for each Member State for the years from 2021 to 2030 in tonnes of CO₂ equivalent in accordance with the linear trajectories set out in paragraph 2 of this Article.

For the years 2021 and 2022, the Commission shall determine the annual emission allocations based on a comprehensive review of the most recent national inventory data for the years 2005, 2016, 2017 and 2018, submitted by the Member States pursuant to Article 7 of Regulation (EU) No 525/2013, and shall indicate the value for the 2005 greenhouse gas emissions of each Member State used to determine those annual emission allocations.

For the years 2023, 2024 and 2025, the Commission shall determine the annual emission allocations based on the value for the 2005 greenhouse gas emissions of each Member State indicated pursuant to the second subparagraph of this paragraph and on the reviewed values of the national inventory data for the years 2016, 2017 and 2018 referred to in that second subparagraph.

For the years 2026 to 2030, the Commission shall determine the annual emission allocations based on the value for the 2005 greenhouse gas emissions of each Member State indicated pursuant to the second subparagraph of this paragraph and on a comprehensive review of the most recent national inventory data for the years 2021, 2022 and 2023 submitted by the Member States pursuant to Article 26 of Regulation (EU) 2018/1999.

4. The implementing acts referred to in paragraph 3 shall also specify, based on the percentages notified by Member States pursuant to Article 6(3), (3a) and (3b), the total quantities that may be taken into account for a Member State's compliance under Article 9 between 2021 and 2030. If the sum of all Member States' total quantities exceeds the collective total of 100 million, the total quantities for each Member State shall be reduced on a pro rata basis so that the collective total is not exceeded.;

- (b) the following paragraph is added:

'6. When undertaking the actions to limit the greenhouse gas emissions under paragraphs 1 and 2, Member States shall consider the need to ensure a just and socially fair transition for all. The Commission may issue guidance to support Member States in that regard.;

- (4) Article 5 is amended as follows:

- (a) paragraph 1 is replaced by the following:

'1. In respect of the years 2021 to 2025, a Member State may borrow a quantity of up to 7,5 % from its annual emission allocation for the following year.;

- (b) paragraphs 3 and 4 are replaced by the following:

'3. A Member State whose greenhouse gas emissions for a given year are below its annual emission allocation for that year, taking into account the use of flexibilities pursuant to this Article and Article 6, may:

- (a) in respect of the year 2021, bank the excess part of its annual emission allocation up to a level of 75 % of its annual emission allocation for 2021 to subsequent years until 2030; and

(b) in respect of the years 2022 to 2029, bank the excess part of its annual emission allocation up to a level of 25 % of its annual emission allocations up to that year to subsequent years until 2030.

4. A Member State may transfer up to 10 % of its annual emission allocation for a given year to other Member States in respect of the years 2021 to 2025, and up to 15 % in respect of the years 2026 to 2030. The receiving Member State may use that quantity for compliance under Article 9 for the given year or for subsequent years until 2030.;

(c) the following paragraph is inserted:

‘5a. Before any transfer of annual emission allocations pursuant to paragraphs 4 and 5, a Member State shall inform, in electronic form, the Climate Change Committee established by Regulation (EU) 2018/1999 of its intention to transfer part of its annual emission allocation for any given year.’;

(d) paragraph 6 is replaced by the following:

‘6. Member States should use revenues, or their equivalent in financial value, generated by transfers of annual emission allocations pursuant to paragraphs 4 and 5 to tackle climate change in the Union or in third countries. Member States shall inform the Commission of any actions taken pursuant to this paragraph and shall make that information public in an easily accessible form.’;

(5) Article 6 is amended as follows:

(a) in paragraph 3, the second subparagraph is replaced by the following:

‘The Member States listed in Annex II may decide to revise the notified percentage once in 2024 and once in 2027. In such case, the Member State concerned shall notify the Commission thereof by 31 December 2024 or by 31 December 2027, respectively.’;

(b) the following paragraphs are inserted:

‘3a. Malta shall notify the Commission by 31 December 2023 if it intends to make use of the limited cancellation of EU ETS allowances referred to in paragraph 1 of this Article, up to the percentage listed in Annex II for each of the years 2025 to 2030, for its compliance under Article 9.

3b. Notwithstanding paragraph 3, the Member States listed in Annex II which have not notified the Commission by 31 December 2019 of an intention to make use or full use of the limited cancellation of EU ETS allowances referred to in paragraph 1 of this Article shall notify the Commission by 31 December 2023 if they intend to make use or further use of that limited cancellation of EU ETS allowances, up to the percentage listed in Annex II for each year of the period from 2025 to 2030 for each Member State concerned, for its compliance under Article 9.’;

(c) paragraphs 4 and 5 are replaced by the following:

‘4. At a Member State’s request, the Central Administrator designated pursuant to Article 20(1) of Directive 2003/87/EC (the “Central Administrator”) shall take into account an amount up to the total quantity determined pursuant to Article 4(4) of this Regulation for that Member States’ compliance under Article 9 of this Regulation. One-tenth of the total quantity of EU ETS allowances determined pursuant to Article 4(4) of this Regulation shall be cancelled pursuant to Article 12(4) of Directive 2003/87/EC for each year from 2021 to 2030 for that Member State. One-sixth of the total quantity of EU ETS allowances determined pursuant to Article 4(4) of this Regulation shall be cancelled pursuant to Article 12(4) of Directive 2003/87/EC for each year from 2025 to 2030 for Member States that have notified the Commission pursuant to paragraphs 3a and 3b of this Article.

5. Where a Member State, in accordance with paragraph 3, has notified the Commission of its decision to revise the previously notified percentage, a correspondingly lower or higher quantity of EU ETS allowances shall be cancelled for that Member State in respect of each year from 2026 to 2030 or from 2028 to 2030, respectively.’;

(6) Article 7 is amended as follows:

(a) the title is replaced by the following:

‘Additional use of net removals from LULUCF’;

(b) paragraph 1 is amended as follows:

(i) the introductory sentence is replaced by the following:

‘1. To the extent that a Member State’s greenhouse gas emissions exceed its annual emission allocations for a given year, including any annual emission allocations banked pursuant to Article 5(3) of this Regulation, a quantity up to the sum of total net removals and total net emissions from the combined land accounting categories included in the scope of Regulation (EU) 2018/841, may be taken into account for its compliance under Article 9 of this Regulation for that year, provided that:’;

(ii) point (a) is replaced by the following:

‘(a) the cumulative quantity taken into account for that Member State for the years 2021 to 2025 does not exceed half of the maximum amount of total net removals set out in Annex III to this Regulation for that Member State;

(aa) the cumulative quantity taken into account for that Member State for the years 2026 to 2030 does not exceed half of the maximum amount of total net removals set out in Annex III to this Regulation for that Member State;’;

(c) paragraph 2 is deleted;

(7) Article 8 is replaced by the following:

‘Article 8

Corrective action

1. If the Commission finds, in its annual assessment under Article 29 of Regulation (EU) 2018/1999 and taking into account the intended use of the flexibilities referred to in Articles 5, 6 and 7 of this Regulation, that a Member State is not making sufficient progress towards meeting its obligations under Article 4 of this Regulation, that Member State shall, within three months, submit to the Commission a corrective action plan that includes:

- (a) a detailed explanation of why that Member State is not making sufficient progress towards meeting those obligations;
- (b) an assessment of how Union funding has supported that Member State’s efforts towards meeting those obligations and of how it intends to use such funding to make progress towards meeting them;
- (c) additional actions, complementing the integrated national energy and climate plan of that Member State pursuant to Regulation (EU) 2018/1999 or reinforcing its implementation, that it is to implement in order to meet those obligations, through domestic policies and measures and the implementation of Union action, accompanied by a detailed assessment, which is underpinned by quantitative data, where available, of the envisaged greenhouse gas emission reductions resulting from those actions;
- (d) a strict timetable for implementing such actions, which enables the assessment of annual progress in implementation.

Where a Member State has established a national climate advisory body, it may seek its advice to identify the necessary actions referred to in point (c) of the first subparagraph.

2. In accordance with its annual work programme, the European Environment Agency shall assist the Commission in its work to assess any such corrective action plans.

3. The Commission may issue an opinion regarding the robustness of the corrective action plans submitted in accordance with paragraph 1 and shall in that case do so within four months of receipt of those plans. The Member State concerned shall take utmost account of the Commission’s opinion and may revise its corrective action plan accordingly. If the Member State concerned does not address the Commission’s opinion or a substantial part thereof, that Member State shall provide a justification to the Commission.

4. Each Member State shall make its corrective action plan as referred to in paragraph 1 and any justification as referred to in paragraph 3 publicly available. The Commission shall make its opinion as referred to in paragraph 3 publicly available.’;

- (8) in Article 9, paragraph 2 is replaced by the following:

'2. If the greenhouse gas emissions of a Member State in the period from 2021 to 2025 referred to in Article 4 of Regulation (EU) 2018/841 exceeded its removals, as determined in accordance with Article 12 of that Regulation, the Central Administrator shall deduct from that Member State's annual emission allocations an amount equal to those excess greenhouse gas emissions in tonnes of CO₂ equivalent for the relevant years.'

- (9) Article 15 is replaced by the following:

'Article 15

Review

1. This Regulation shall be kept under review taking into account, inter alia, evolving national circumstances, the manner in which all sectors of the economy contribute to the reduction of greenhouse gas emissions, international developments and efforts undertaken to achieve the long-term objectives of the Paris Agreement and of Regulation (EU) 2021/1119.

2. The Commission shall submit a report to the European Parliament and to the Council, within six months of each global stocktake agreed under Article 14 of the Paris Agreement, on the operation of this Regulation, including the balance between supply and demand for annual emission allocations, as well as on the suitability of the national greenhouse gas emission reduction targets contained in Annex I to this Regulation as regards their contribution to the Union's climate objectives pursuant to Regulation (EU) 2021/1119 and to the goals of the Paris Agreement. That report shall include in particular an assessment of the need for additional Union policies and measures in view of the necessary greenhouse gas emission reductions by the Union and its Member States in a post-2030 framework. It shall also include an assessment of a reduction pathway for the greenhouse gas emissions covered by this Regulation that is compatible with the objective of climate neutrality at the latest by 2050, taking into account the projected indicative Union greenhouse gas budget referred to in Article 4(4) of Regulation (EU) 2021/1119 as well as the importance of promoting both fairness and solidarity among Member States and cost-effectiveness in achieving that objective. That report may be accompanied, if appropriate, by legislative proposals.

The report referred to in the first subparagraph shall take into account the long-term strategies of Member States prepared and submitted pursuant to Article 15(1) of Regulation (EU) 2018/1999 and the assessment thereof made by the Commission pursuant to Article 15(9) of that Regulation.'

- (10) the following Article is inserted:

'Article 15a

Scientific advice

The European Scientific Advisory Board on Climate Change, established under Article 10a of Regulation (EC) No 401/2009 of the European Parliament and of the Council (*), (the "Advisory Board") may, on its own initiative, provide scientific advice or issue reports on Union measures, climate targets, annual emission levels and flexibilities under this Regulation. The Commission shall consider the relevant advice and reports of the Advisory Board, in particular as regards future measures aiming at further greenhouse gas emission reductions in the sectors covered by this Regulation.

(*) Regulation (EC) No 401/2009 of the European Parliament and of the Council of 23 April 2009 on the European Environment Agency and the European Environment Information and Observation Network (OJ L 126, 21.5.2009, p. 13).;

- (11) Annexes I, II and III are amended in accordance with the Annex to this Regulation.

*Article 2***Amendments to Regulation (EU) 2018/1999**

Regulation (EU) 2018/1999 is amended as follows:

(1) in Article 26, paragraph 3 is replaced by the following:

'3. From 2023, Member States shall determine and report to the Commission final greenhouse gas inventory data by 15 March each year (year X) and preliminary greenhouse gas inventory data by 15 January each year, including the greenhouse gases and the inventory information listed in Annex V. The report on the final greenhouse gas inventory data shall also include a complete and up-to-date national inventory report. Within three months of receiving the reports, the Commission shall make the information referred to in point (n) of the first paragraph of Part 1 of Annex V available in electronic form to the Climate Change Committee referred to in point (a) of Article 44(1).';

(2) in Annex V, Part 1, first paragraph, point (n) is replaced by the following:

'(n) information on:

- (i) the Member State's intentions to make use of the flexibilities referred to in Article 5(4) and (5) of Regulation (EU) 2018/842, including, where possible, information regarding quantities, type of transfer and estimated range of prices;
- (ii) the use of revenues under Article 5(6) of Regulation (EU) 2018/842;
- (iii) the Member State's intentions to make use of the flexibility referred to in Article 7(1) of Regulation (EU) 2018/842.'

*Article 3***Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 19 April 2023.

For the European Parliament
The President
R. METSOLA

For the Council
The President
J. ROSWALL

ANNEX

Annexes I, II and III to Regulation (EU) 2018/842 are amended as follows:

(1) Annex I is replaced by the following:

'ANNEX I

MEMBER STATE GREENHOUSE GAS EMISSION REDUCTIONS PURSUANT TO ARTICLE 4(1)

	Member State greenhouse gas emission reductions in 2030 in relation to their 2005 levels determined in accordance with Article 4(3)	
	Column 1	Column 2
Belgium	- 35 %	- 47 %
Bulgaria	- 0 %	- 10 %
Czechia	- 14 %	- 26 %
Denmark	- 39 %	- 50 %
Germany	- 38 %	- 50 %
Estonia	- 13 %	- 24 %
Ireland	- 30 %	- 42 %
Greece	- 16 %	- 22,7 %
Spain	- 26 %	- 37,7 %
France	- 37 %	- 47,5 %
Croatia	- 7 %	- 16,7 %
Italy	- 33 %	- 43,7 %
Cyprus	- 24 %	- 32 %
Latvia	- 6 %	- 17 %
Lithuania	- 9 %	- 21 %
Luxembourg	- 40 %	- 50 %
Hungary	- 7 %	- 18,7 %
Malta	- 19 %	- 19 %
Netherlands	- 36 %	- 48 %
Austria	- 36 %	- 48 %
Poland	- 7 %	- 17,7 %
Portugal	- 17 %	- 28,7 %
Romania	- 2 %	- 12,7 %
Slovenia	- 15 %	- 27 %
Slovakia	- 12 %	- 22,7 %
Finland	- 39 %	- 50 %
Sweden	- 40 %	- 50 %

(2) in Annex II the entry for Malta is replaced by the following:

Malta	7 %
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(3) Annex III is amended as follows:

(a) the title of Annex III is replaced by the following:

‘TOTAL NET REMOVALS FROM THE CATEGORIES OF LAND COVERED BY REGULATION (EU) 2018/841 THAT MEMBER STATES MAY TAKE INTO ACCOUNT FOR COMPLIANCE FOR THE PERIOD 2021 TO 2030 PURSUANT TO POINTS (a) AND (aa) OF ARTICLE 7(1) OF THIS REGULATION’;

(b) the entry for the United Kingdom is deleted;

(c) in the last row of the table, ‘280’ is replaced by ‘262,2’.
