



Council of the
European Union

Brussels, 20 July 2023
(OR. en)

11403/23

MI 590

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	22 June 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 325 final
Subject:	REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the exercise of the power to adopt delegated acts conferred on the Commission pursuant to Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC

Delegations will find attached document COM(2023) 325 final.

Encl.: COM(2023) 325 final



EUROPEAN
COMMISSION

Brussels, 22.6.2023
COM(2023) 325 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**on the exercise of the power to adopt delegated acts conferred on the Commission
pursuant to Regulation (EU) 2016/426 of the European Parliament and of the Council of
9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC**

INTRODUCTION

Regulation (EU) 2016/426¹ lays down requirements on the design and manufacture of appliances burning gaseous fuels and rules on their free movement in the Union. Article 4(2) of the Regulation empowers the Commission to adopt delegated acts in accordance with Article 41 concerning modifications to the content of the Member States' communications of the gas supply conditions on their territory, as set out in Annex II, in order to take into account the technical developments with regard to the gas supply conditions.

LEGAL BASIS

This report is required under Article 41(2) of Regulation (EU) 2016/426. Pursuant to that provision, the power to adopt delegated acts is conferred on the Commission for a period of five years from 21 April 2018 and the Commission is required to prepare a report in respect of the delegation of power not later than nine months before the end of the five-year period.

EXERCISE OF THE DELEGATION

Since the entry into force of Regulation (EU) 2016/426, the Commission has not made use of the empowerment. No delegated act has been adopted yet.

However, the reasons, which have led the co-legislators to delegate the power to adopt delegated acts on the Commission, are still valid and the Commission may indeed need to make use of the empowerment in the future. For example, the Regulation sets out to the Member States the obligation to communicate to the Commission and the other Member States the types of gas and corresponding supply pressures of gaseous fuels used on their territory in accordance with Annex II. Due to the fast evolving gas market and increase in use of gaseous fuels from alternative sources including renewable gas, the parameters and other information as requested in Annex II may need to be complemented with additional requirements. The Commission might therefore make use of the empowerment to modify the content of the Member States' communications of the gas supply conditions on their territory.

CONCLUSION

The Commission believes that, despite the fact that to date the Commission has not adopted any delegated act, the delegation of power as stated in Article 4 of Regulation (EU) 2016/426 should be tacitly extended for a period of five years, in accordance with Article 41(2) of the Regulation.

The Commission invites the European Parliament and the Council to take note of this report.

¹ Regulation (EU) 2016/426 of the European Parliament and of the Council of 9 March 2016 on appliances burning gaseous fuels and repealing Directive 2009/142/EC (OJ L 81, 31.3.2016, p. 99).