EUROPEAN
COMMISSION

Brussels, 24.4.2023
COM(2023) 204 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 Directive (EU) 2018/2001/EU on the promotion of the use of energy from renewable sources

1. INTRODUCTION

Directive (EU) 2018/2001 of 11 December 2018 on the promotion of the use of energy from renewable sources ("the Directive") establishes a common framework for the promotion of energy from renewable sources. It entered into force on 24 December 2018. It sets a binding Union target for the overall share of energy from renewable sources in the Union's gross final consumption of energy in 2030. It also lays down rules on financial support for electricity from renewable sources, on self-consumption of such electricity, on the use of energy from renewable sources in the heating and cooling sector and in the transport sector, on regional cooperation between Member States, and between Member States and third countries, on guarantees of origin, on administrative procedures and on information and training. It also establishes sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels.

According to the provisions of the Directive, the Commission is empowered to adopt delegated acts in a number of areas. The Directive also imposes on the Commission the obligation to report to the co-legislators in respect of the delegation of power conferred on it.

2. LEGAL BASIS

The present report is required under Article 35(2) of the Renewable Energy Directive, which stipulates that the Commission has to prepare a report in respect of delegated powers at the latest 9 months before the end of the five-year period starting 24 December 2018.

According to Article 35, the Commission is empowered to adopt delegated acts referred to in the fifth subparagraph of Article 7(3), the second subparagraph of Article 8(3), the second subparagraph of Article 25(2), the fourth subparagraph of Article 26(2), the fifth subparagraph of Article 26(2), point (c) of Article 27(1), the seventh subparagraph of Article 27(3), Article 28(5), the second subparagraph of Article 28(6), and the second subparagraph of Article 31(5). The power to adopt delegated acts is conferred on the Commission for a period of five years from 24 December 2018 according to Article 35(2), with the exception to the fifth subparagraph of Art 7(3), where, according to Article 35 (3), the period is only two years.

Except for power to adopt delegated acts laid down in the fifth subparagraph of Article 7(3), the delegation of power will be tacitly extended for periods of an identical duration unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. EXERCISE OF THE DELEGATION

a) The following delegated acts were adopted:

During the reporting period, the Commission exercised its delegated powers, by adopting the following delegated acts:

Area of delegation	**Basis for delegation**
COMMISSION DELEGATED REGULATION (EU) 2022/759 of 14 December 2021 amending Annex VII to Directive (EU) 2018/2001 of the European Parliament and of the Council as regards a	Article 7 (3)

methodology for calculating the amount of renewable energy used for cooling and district cooling	
COMMISSION DELEGATED REGULATION (EU) 2021/2003 of 6 August 2021 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing the Union renewable development platform	Article 8(3)
COMMISSION DELEGATED REGULATION (EU) 2019/807 of 13 March 2019 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council as regards the determination of high indirect land-use change-risk feedstock for which a significant expansion of the production area into land with high carbon stock is observed and the certification of low indirect land-use change-risk biofuels, bioliquids and biomass fuels	Article 26(2), fourth subparagraph
COMMISSION DELEGATED REGULATION (EU) …/... of 10.2.2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a Union methodology setting out detailed rules for the production of renewable liquid and gaseous transport fuels of non-biological origin C (2023) 1087 final	Article 27(3), seventh subparagraph
COMMISSION DELEGATED REGULATION (EU) …/... of 10.2.2023 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council by establishing a minimum threshold for greenhouse gas emissions savings of recycled carbon fuels and by specifying a methodology for assessing greenhouse gas emissions savings from renewable liquid and gaseous transport fuels of non-biological origin and from recycled carbon fuels C(2023) 1086 final	Article 25(2) and Article 28(5)

The last two delegated regulations were adopted on 10 February 2023. They had not yet entered into force as of the date of the adoption of this Report and were still under scrutiny by the European Parliament and the Council.

b) Work on the following delegated acts is on-going:

The following acts are currently under preparation:

Area of delegation	**Expected adoption date**	**Basis for delegation**
Reviewing criteria on high ILUC-risk biofuels, including a decreasing trajectory for high ILUC-risk biofuels	September 2023	Article 26(2), fourth subparagraph
Adding feedstock that can be processed only with advanced technologies to Part A of Annex IX	likely adoption in Q2/2023	Article 28(6), second subparagraph

c) No exercise of referred power considered necessary until now:

During the reporting period, the Commission considered that it was not necessary to adopt delegated acts for the following points:

Area of delegation	Basis for delegation
Adapting the energy content of transport fuels, as set out in Annex III, in accordance with scientific and technical progress	Article 27 (1) (c)
Amend, where appropriate, Annexes V and VI by adding or revising the default values or modifying the methodology.	Article 31(5)

d) Consultation prior to adoption

The Commission always consulted experts nominated by Member States and relevant stakeholders, via regular dedicated meetings of the relevant Commission Expert Group and written consultations, during the preparation of delegated acts under the Directive. The European Parliament was also invited to participate in all these consultation activities. The documents relevant to these consultations were transmitted simultaneously to the European Parliament and to the Council, as foreseen in the Common Understanding on delegated acts. Moreover, public consultations took place to give all stakeholders the possibility for feedback.

The observations presented in these consultations were taken into consideration when preparing the final versions of delegated acts.

4. CONCLUSION

Over the past five years, the Commission has exercised properly the delegated powers conferred to it under the Renewable Energy Directive. Given the fact that not all delegated acts for which the Commission has received a referral of power have been adopted by the time of writing this report, the Commission sees the need for extension of all empowerments to adopt delegated acts provided for in the Directive beyond the current five-year period. It invites the European Parliament and the Council to take note of this report.