



**COUNCIL OF
THE EUROPEAN UNION**

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ADDENDUM 2 TO REPORT

from: General Secretariat of the Council
to: Permanent Representatives Committee (Part I)
Subject: Proposal for a Directive of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services
- Analysis of the final compromise text with a view to agreement

Delegations will find attached a joint declaration related to Article 3(2)(e), identical to the one entered by the Commission in the EPSCO Council minutes in December 2013, made by the three institutions to be published in the OJ together with the Directive.

Joint statement by the European Parliament, the Council and the Commission
on Article 3(2)(e)

The fact whether or not the post to which the posted worker is temporarily assigned to carry out his/her work in the framework of the provision of services was filled by the same or another (posted) worker during any previous periods constitutes only one of the possible elements to be taken into account while making an overall assessment of the factual situation in case of doubt.

The mere fact that it can be one of the elements should in no way be interpreted as imposing a ban on the possible replacement of a posted worker by another posted worker or hampering the possibility of such a replacement, which may be inherent in particular to services which are provided on a seasonal, cyclical or repetitive basis.
