

**Barriers to Working in Europe for the UK Music Industry
Submission by the Incorporated Society of Musicians (January 2022)**

This submission was prepared by the Incorporated Society of Musicians (ISM), the UK's oldest professional representative body for musicians.

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Summary

International touring represents an essential part of the music industry - research by the ISM showed that 21% of musicians were earning more than a quarter of their total income in the EU. Despite contributing £116bn to the UK economy and generating a significant amount of soft power, the trade deal did not include provisions for the creative industries. Creative workers travelling to the EU now face additional costs and bureaucracy in the form of visas, work permits, ATA Carnets, CITES regulations, and cabotage restrictions. Although these costs are often per person, there is an obvious cumulative impact even for individuals and small groups of musicians and support staff. These new rules threaten the financial viability of touring, particularly for young and emerging artists, at a time when the sector is looking to open up and rebuild, in the wake of the COVID-19 pandemic.

As a result, many musicians fear for their livelihoods and their careers. UK musicians have lost roles, had work cancelled and been barred from auditions - either because it is now too expensive to travel to the EU, or because EU based promoters, orchestras and ensembles are reluctant to hire UK-based musicians. Some UK musicians are even having to relocate to the EU, so they are better placed to find work. Without urgent action, we are facing a permanent exodus of talent from our world-leading industry. The ISM has been inundated with personal testimonies from musicians who are facing a crisis of livelihood. Musicians are already losing work in Europe and many EU promoters and venues are no longer hiring UK passport holders. Without urgent action, we are facing a permanent exodus of talent from our world-leading industry.

The ISM is committed to play an active and constructive role with the UK Government to fix the problems facing touring musicians after Brexit. To help achieve this, we are calling on the UK Government to negotiate a bespoke visa waiver agreement with the EU that is separate to the trade deal exempting touring performers, creative teams and crews from needing to obtain a visa when seeking paid work.

In addition to this priority proposal, we ask the Government to:

- negotiate a UK-EU Visa Waiver Agreement for short term visits which would allow musicians and support staff to work visa-free in the EU for up to 90 days in a 180-day period.
- secure bilateral agreements with individual Member States that do not offer cultural exemptions for visas and/or work permits, or which offer exemptions which are less than those offered by the UK (90 days in a 180-day period)

- work with the EU to secure an exemption from the current cabotage restrictions for the creative and cultural sector, applied to UK haulage vehicles operating in the EU and vice versa
- make Eurostar a designated CITES port
- ensure there remains no charge for Musical Instrument Certificates
- create an exemption to the cost of an ATA carnet for non-portable musical instruments and equipment

Background

Value of touring and the creative industry

The creative industries are hugely successful, employing over three million peopleⁱ and growing more than five times faster than the national economy.ⁱⁱ Music is key component, contributing £5.8 billion to the UK economy annually.ⁱⁱⁱ The UK boasts an impressive music scene that affords us a prominent cultural platform on the world stage.

Europe is one of the most important marketplaces for touring musicians. Working in the EU/EEA – whether that involves performing, recording, teaching, collaborating or other activities – is an essential part of the profession’s ability to earn. There is not enough work available in the UK for musicians to sustain their livelihoods so they must travel abroad. Research by the ISM found that before the pandemic, 21% of musicians were earning more than a quarter of their total income in the EU.

Impact of the trade deal

We have received personal testimonies from numerous performers and conductors also showing that European work forms a significant proportion of their annual engagements, with musicians paying a substantial amount of UK tax on those earnings. Both established and early career musicians have told us that the costs now associated with performing in Europe would be prohibitive, as would the amount of time it takes to apply for visas and work permits. Short-notice engagements which were typical within the professional, described as ‘enriching’ and ‘career advancing’ are now impossible.

‘I am still trying to work out if I can afford to go as the visa requirements are not clear and it is devastating to have to give up the opportunities to make music and make contacts with our colleagues in Europe, especially at the start of my career.’ (21-year-old cellist)

‘It looks like a significant portion of my work to date has no future. A pioneering project rich in cultural exchange and learning, creating employment and boosting the UK economy as well as representing a valuable cultural export, looks set to be unnecessarily sacrificed on the altar of Brexit.’ (Musical Director of children’s opera company)

‘With the unclarity on Brexit over the intervening four years, sadly my work in both Poland and Germany fizzled out in favour of the ensembles using musicians from the rest of Europe and locally. It is a huge loss for me, in terms of both personal and musical identity.’ (Baroque cellist)

We also heard from UK musicians already engaged by European ensembles and orchestras or living in EU countries for work. They are finding that EU freelancers are being ‘preferentially engaged’ over British citizens as they are ‘easier for the orchestra to book’. For example, the leader of a European-based Baroque orchestra told us how the orchestra management replaced her with a local violinist on a two-month tour. This was due to travel restrictions and the time constraints of applying for a work permit. As a result, she had lost all her income for the season.

'The only way around this [cost of visas and work permits for an orchestral tour] would be to ditch almost all of our loyal UK members, employ largely EU performers and rehearse in the EU. So, our wonderful UK performers, some of whom have performed with us for 25 years, would lose their work. And not just them - the ripples spread: our London rehearsal venue would lose its daily fee. The local takeaways and restaurants we would frequent whilst we rehearse in London would lose their income. We wouldn't need to buy flights from British airlines, so they and the specialist travel agency that orchestras must use when making complicated bookings for cellos and timpani would also lose their income.' (Orchestra Manager)

Visas and work permits

Because the EU and UK failed to reach an agreement on a visa waiver for artist and performers, Member States can now choose to treat UK citizens as 'visa nationals' when entering that country for paid work and require a visa and/or work permit. Whilst some EU countries offer exemptions for up to 90 days, many do not. The regulatory landscape for musicians wanting to work in Europe is therefore incredibly complex, especially if they plan to visit multiple countries.

With regard to both visas and work permits, we have been concerned by a lack of clear and accurate government guidance on requirements for creative sector workers. Even countries which allow musicians to carry out some work without a permit, often restrict this to just a few days or weeks – so UK musicians are limited in the opportunities they can take up.

To support the industry after leaving the EU, the ISM undertook our own research on each of the 27 member states, plus Switzerland, Iceland and Norway to determine the visa and work permit requirements for touring musicians. This work began in January 2021 and the first version of the ISM's [Visa and Work Permit Guide](#) was published in February 2021. The guide has been regularly updated throughout the past 10 months to reflect new or additional information.

Worryingly, given the amount of public money being spent by Government to gather this same information (it is a matter of [public record](#) that Deloitte have been paid £200,000 to compile the Department for Business, Energy and Industrial Strategy guides on this), we have also had to raise several inaccuracies with these guides which BEIS have later had to correct. The Department for Digital, Culture, Media and Sport (DCMS) has been hesitant to give any advice in writing, either to the sector or on the gov.uk website.

The Government have claimed that '[visa-free touring is possible in 20 Member States](#)'. Indeed, their latest note on Member States' Guidance claims that 21 Member States have 'confirmed they offer visa and work permit free routes of up to 90 days, and most offer 30 days'. In fact, in many of these countries we know that the visa and permit free work which is allowed, is limited to just a few days or weeks. We have also known the majority of this information since February 2021 and so little, if any, real progress has actually been made and no bilateral negotiations have taken place.

We have voiced our concerns to Government that this could lead to musicians who are planning to work in these countries, setting off believing that they no longer need a permit or visa. In many cases this will be incorrect. They will then run into problems when they attempt to enter the country where they are booked to work. This has the potential to cause real distress – as well as having serious financial implications for the musicians concerned. Irrespective of the

information both the ISM and DCMS have collected, it cannot account for what happens on the ground or how the many and varied requirements and restrictions are being implemented by border officials. Even in countries where exemptions exist, musicians are still coming up against obstacles such as different regions within the same country interpreting and applying the rules differently. It is also worth noting that while some countries explicitly include technical and support staff in their exemptions, many do not and they would, therefore, still require a visa and/or work permit.

The current situation

The table below shows the current situation as we understand it. Although some countries offer touring on comparable terms to creatives coming to the UK, there may be regional variations such as those in Belgium, restrictions on employers such as those in Estonia and restrictions based on the type of event or the size of the role such as those in Denmark.

Countries which offer touring on comparable terms to the UK (i.e. up to 90 days in a 180-day period)	Countries which allow some touring but much less than 90 days in a 180-day period	Countries where touring is neither visa free nor work permit free.
Belgium (Brussels and Wallonia)	Austria	Cyprus
Bulgaria	Belgium (Flanders)	Denmark (If an artist is not a substantial or essential part of a noteworthy artistic event)
Denmark (if participation constitutes a substantial or essential part of a noteworthy artistic event)	Croatia	Greece
Estonia (the employer of a person engaged in creative activities must be a performing arts institution for the purposes of the Performing Arts Institutions Act.	Czech Republic	Liechtenstein
Finland	Latvia	Malta
France	Netherlands	
Germany	Norway	
Hungary	Poland	
Iceland	Slovakia	
Ireland	Sweden	
Italy	Switzerland	
Lithuania		
Luxembourg		
Portugal		

Romania		
Slovenia		
Spain		

Visa Waiver Agreement

A bespoke visa waiver agreement with the EU for the creative and cultural sector would solve one key area of red tape and add a greater level of certainty for people working in our sector. This would send a strong message that the Government is doing everything it can to protect our world leading creative and cultural sector. Benefiting a limited number of professions, this is entirely compatible with the Government’s manifesto commitment to take back control of our borders.

The ISM and others across the creative industries have been calling on the Government and EU to negotiate a bespoke Visa-Waiver Agreement for the creative industries. This could allow touring performers, creative teams and crews to tour in the EU without a visa for up to 90 days in a period of 180.

This has received extremely broad support across the creative sector. For instance:

- [MPs debated a petition](#) calling on the Government to ‘Seek Europe-wide Visa-free work permit for Touring professionals and Artists’ in February 2021, after it gathered more than 280,000 signatures.
- In April, 2021, [a letter coordinated by the ISM](#) was signed by more than 300 representatives from the creative industries, calling on the Prime Minister to ‘fix the crisis we find ourselves in following the completion of the Trade and Cooperation Agreement (TCA)’ including by ‘negotiate[ing] a bespoke Visa Waiver Agreement (VWA) with the EU for our sector, covering all creative professionals including technical and support staff as well as journalists’.
- In September 2021, campaign group Carry on Touring sent [a letter](#) to the new Secretary of State for Digital, Culture, Media and Sport, Nadine Dorries MP saying “We will continue to fight for a pan European EU visa and work permit waiver to be negotiated because that is the only way to get tours back on the road and real people like us back into our jobs without the hinderance of time limitations, red tape and financial loss”. The letter was signed by more than 1,600 people from the creative sector.

On 30 September 2021 the ISM together with Sarah Lee QC, who has been advising the ISM on the Visa Waiver Agreement, met with officials from the Home Office, BEIS, the Cabinet Office and DCMS to examine in detail how a VWA would work and other issues such as work permits. During the meeting the officials confirmed that a VWA with the EU focusing on a visa waiver covering just those working in the creative industries was legally viable. However, the officials said that there was a reluctance to pursue this route for political reasons.

ATA Carnets

An ATA Carnet is an international customs document that covers goods that are temporarily being moved between countries (not for sale) and is now required when transporting a non-portable instrument (or other creative equipment) between Britain and the EU.

Once a Carnet has been issued, it is valid for one year and can be used multiple times, in multiple countries during this time. The cost of a carnet is significant: usually £180 plus VAT for members

of the London Chamber of Commerce and Industry, and £300 plus VAT for non-members - plus a security deposit, of 30-40% of the value of the goods/equipment listed. Although, for example, an orchestra would be able to list all their instruments and equipment on one carnet, the security deposit would apply to their total value. The carnet needs to then be presented and stamped when entering the first EU Member State, and on exiting the EU.

An ATA Carnet is not required for musicians with accompanied instruments (i.e. carried or taken with the individual in personal baggage or a vehicle) travelling between Great Britain and the EU. However, if a musician is travelling with an instrument which they cannot accompany (i.e. they are carried as freight) then a carnet will be required. Larger scale touring arrangements such as orchestras and concert touring operatives will face huge additional costs, threatening their financial viability.

CITES regulations

Musicians travelling with instruments or accessories containing certain protected materials (e.g. ivory and tortoiseshell) need to obtain a Musical Instrument Certificate (MIC) and have it stamped when transporting their instrument between the EU and UK.

The application is currently free, and the permit is valid for three years. However, the holder must travel through CITES-designated point of entry and exit to allow customs authorities to endorse the certificate when entering or leaving the UK. There are also plans to review the cost in 2022.

These new rules prevent musicians from travelling through preferred routes such as the Eurostar, which are not listed as a CITES-designated point of entry or exit.

Cabotage restrictions

Under the new TCA rules, reduced cabotage for hauliers over 3.5 tonne operating in the EU from the UK will now be permitted a maximum of 3 internal movements. This will prove extremely difficult for tour operators hoping to facilitate tours organised from the UK in the EU. For example, a tour by an orchestra might typically last 1-3 weeks and cover half a dozen countries. Unlike most haulage arrangements with a single 'pick up and drop off', touring haulage operators often arrange multiple movements, accommodating for the unique nature of multi-country tours.

The new rules apply to both the UK operators in the EU as well as EU operators in the UK. However, this is likely to have the greatest impact for UK business, with an estimated 85% of EU touring companies operating out of the UK.

Further information

For further information on the issues outlined in this briefing, you may be interested in reading the following:

[The impact of the Brexit Trade Deal on music businesses: The first 100 days \(April 2021\)](#): This report by the ISM assesses the impact of the EU-UK Trade and Cooperation Agreement (TCA) on music businesses, including findings from a survey exploring their experiences which was conducted between March and April 2021.

5th annual Brexit report: 'Will Music Survive Brexit? (May 2020): This annual study demonstrates the impact of Brexit on the music profession now that the UK has left the EU.

Professionally Paralysed (March 2021): The ISM and MU published a joint report of personal testimonies from music professionals who are facing economic disaster because of Brexit. It contains 17 named case studies and eight anonymous stories, revealing the impact of new administrative and financial burdens which are preventing UK musicians from touring, as Europe begins to reopen after coronavirus.

Evidence to the House of Lords European Affairs Select Committee (Sept 2021): A transcript of an evidence session with the ISM and other representatives from the sector, on the movement of creative professionals between the UK and EU post-Brexit. Following this session, the Committee wrote to Lord Frost outlining their concerns.

ⁱ <https://www.cbi.org.uk/articles/centre-stage-keeping-the-uk-s-creative-industries-in-the-spotlight/>

ⁱⁱ <https://www.gov.uk/government/news/uks-creative-industries-contributes-almost-13-million-to-the-uk-economy-every-hour>

ⁱⁱⁱ <https://www.ukmusic.org/research-reports/music-by-numbers-2020/>