

**Research Briefing**

Number CBP 9130

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30 June 2021

# EU-UK Trade and Cooperation Agreement: Temporary business travel

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## Summary

The UK-EU [Trade and Cooperation Agreement \(TCA\)](#) makes commitments which affect temporary business travel. The provisions offer UK and EU professionals access to the market of the other party.

The Agreement includes commitments related to: short-term business visitors; business visitors for establishment purposes; intra-corporate transferees; contractual service suppliers; and independent professionals.

The UK and EU have agreed not to impose market access restrictions such as economic needs tests and, in certain circumstances, work permits.

This briefing explains what's changed for UK and EU businesses and people who travel to sell services in each other's market.

Business visitors in categories covered by the TCA will be treated similarly to domestic suppliers during their stay. However, various reservations and exemptions apply, which means they will not enjoy the same rights as EU members. From 1 January 2021, UK service providers face the 27 different regulatory regimes of each Member State.

National immigration regulations, rules on work permits and employment regulations of the respective EU Member State must be observed. The UK maintains control over its own immigration rules and access to work.

A case study of UK musicians in the EU shows that under the TCA, touring artists no longer have guaranteed visa and work permit-free travel across Europe to give paid performances.

# 1

## The TCA and trade in services

The [Trade and Cooperation Agreement](#) (TCA) which was announced on 24 December 2020, and came into full force on 1 May 2021, lays the foundation for the UK and EU economic partnership.

The TCA gives service providers access to EU and UK markets. It establishes that service providers of one party are treated similarly to domestic providers in the market of the other, avoiding discrimination (they are given ‘national treatment’). However, leaving the EU single market means a profound change to UK service providers that seek to invest or sell their services in EU Member States.

### 1.1

#### What has changed?

Outside the EU single market, UK service providers and investors are no longer covered by the common EU regulatory and supervisory framework, and the harmonised EU standards which existed in certain sectors.

UK businesses have lost the “[automatic right to offer services across the EU](#)”. They no longer benefit from the ‘country-of-origin’ principle, mutual recognition or ‘passporting’, which means that authorisations issued by one Member State under EU rules give access to the entire EU single market.

As a result, they may now need to establish a business (a subsidiary) in the EU for this purpose, and have to follow the domestic rules of each EU Member State (the so-called **host country rules**) in which they have a branch or sell a service.<sup>1</sup>

In this context, business travel that often makes supplying a service abroad possible is facing major changes. The end of free movement between the UK and EU means new barriers to travel for service providers. UK citizens no longer have freedom to work, start a business or live in the EU. They are subject to EU Member State immigration rules and requirements regarding the right to work. They need visas for long-term stays in the EU. The same applies to EU citizens seeking to provide services in the UK.

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<sup>1</sup> European Commission, [Questions & Answers: EU-UK Trade and Cooperation Agreement](#), 24 December 2020

## 1.2

## Provisions on services and investment

The UK and EU have included commitments regarding investment and trade in services in the Agreement.<sup>2</sup> The TCA gives market access for services and investment by removing access barriers like an economic needs test<sup>3</sup> or quantitative restrictions on the number of persons admitted.

One of the basic principles of the TCA is that if one party's service suppliers seek to offer services in the other party, they will not be treated any less favourably than domestic operators, as long as they comply with that party's rules. This 'national treatment' of service providers prevents discrimination.

Commitments related to local presence ensure that businesses seeking to trade services across the border (cross-border services) are not required to establish legal presence in the territory of the other party.

A most-favoured nation clause in the TCA ensures that "if either the UK or the EU gives more favourable terms to another country in future, those terms will automatically extend to the UK/EU."<sup>4</sup>

The level of market access depends on the way the service is supplied, that is:

- whether the service crosses the border, for example over the internet (mode 1);
- if the consumer uses the service while abroad, like a tourist purchasing services in another country (mode 2);
- if a company (a bank or a hotel chain) establishes a branch and supplies services in another country (mode 3);
- or if a service supplier who is a natural person (an individual) and stays temporarily in the territory of another country (mode 4).<sup>5</sup>

The actual ability to supply a particular service or invest in a certain sector under the TCA will depend on specific reservations set out in the agreement separately by the EU, its Member States individually, and the UK.<sup>6</sup> The Institute for Government writes that UK nationals will not, for example, be

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<sup>2</sup> Foreign, Commonwealth & Development Office, [UK/EU and EAEC: Trade and Cooperation Agreement](#), (TCA), 30 April 2021, Part Two, Heading One [Trade], Title II [Services and Investment], Articles 123-195

<sup>3</sup> An economic needs test usually means that market access is granted provided that certain economic criteria are met, which define the host country's need for foreign workers.

<sup>4</sup> Institute for Government, [UK-EU future relationship: the deal: services](#)

<sup>5</sup> The classification of services in four groups depending on the way they are supplied – the so-called modes – is applied in the WTO General Agreement on Trade in Services and free trade agreements. See Commons Library Briefing Trade in services and Brexit, 19 December 2019, section 2.1;

<sup>6</sup> European Commission, [Questions & Answers: EU-UK Trade and Cooperation Agreement](#), 24 December 2020

able to sell actuarial services in Italy or construction services in Cyprus. They will not be able to be surveyors in Bulgaria or tobacconists in France.<sup>7</sup>

In practice, individual EU Member States may have more liberal terms of market access for particular service activities than the TCA stipulates.

## National immigration and labour market regulations

Commitments related to services and investment **do not** affect individuals' access to national labour markets, or national regulations regarding nationality, citizenship, residence, or employment on a permanent basis.

The EU, its Member States and the UK retain their right to regulate the entry of individuals of the other party, and their stay in their territory. Immigration regulations and visa requirements of the UK and EU Member States apply.

## Review clause

The TCA includes an endeavour for the parties to review the services and investment provisions after five years, with a view to introducing future improvements (Article 126).

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<sup>7</sup> Institute for Government, [UK-EU future relationship: the deal: services](#) (accessed 4 February 2021)

## 2

# Temporary business travel

The UK and EU have agreed arrangements that facilitate short-term business travel and temporary placements of highly-skilled employees and independent professionals.

The relevant commitments are set out in Chapter 4 of Title II Services and Investment [Entry and temporary stay of natural persons for business purposes]. The WTO General Agreement on Trade in Services (GATS) and free trade agreements refer to these provisions as Mode 4 services.

These provisions give service providers physical access to the other party's market, prohibit quotas on numbers of service suppliers in a particular sector, and eliminate economic needs tests.

The provisions also stipulate that one party's service suppliers, which are allowed to provide services in another party, have to be treated at least as favourably as domestic suppliers. However, this obligation does not require EU Member States to extend the same treatment to natural or legal persons of the UK, that is granted to individuals or businesses established in other EU Member States.

Chapter 4 of the TCA sets out conditions for the mobility of five groups of business travellers:

- Business visitors for establishment purposes
- Intra-corporate transferees
- Short-term business visitors
- Contractual service providers, and
- Independent professionals.<sup>8</sup>

The permissible length of stay in the territory of the other party varies across these groups. The table below shows the requirements for each group, which are explained further in the sections below.

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<sup>8</sup> TCA, [Chapter 4: Entry and temporary stay of natural persons for business purposes](#), Articles 141, 142, and 143

TCA provisions: Entry and temporary stay for business purposes					
Business travellers	Requirements	Education/qualifications	Length of stay	Sectoral coverage	Specific reservations
Business visitors for establishment purposes	senior position		90 of 180 days	all sectors	Annex 21
Intra-corporate transferees				all sectors	Annex 21
manager	senior employee/partner, >1 year	university degree or equivalent	3 years		
specialist	employee, >1 year	relevant qualification	3 years		
trainee	employee, >6 m	university degree	1 year		
Short-term business visitors			90 of 180 days	all sectors; only listed activities	Annex 21
Contractual service providers	employee, >1 year; contract requires stay abroad	3 years of professional experience; university degree or equivalent; legally required professional qualification	cumulative 12 months/ duration of contract	listed sectors	Annex 22
Independent professionals	established as self-employed in home country; contract requires stay abroad	6 years of professional experience; university degree or equivalent; legally required professional qualification	cumulative 12 months/ duration of contract	listed sectors	Annex 22

The parties have also agreed specific non-conforming measures (existing and future exemptions to the general principles- Article 144 and Annexes 19 and 20) and sector-specific reservations (Annexes 21 and 22). See Box 1 below for an overview of the relevant UK visa rules.

The TCA includes commitments related to transparency (Article 145) and good procedural practices, which affect requirements for entry and temporary stay of persons (Annex 23).

## 2.1 Business visitors for establishment purposes

Investors seeking to establish a business in the territory of the other party may enter and stay for a maximum period of 90 days over six-months without a work permit (Article 141). To qualify, a person must work in a senior position in a company established in the territory of the other party and be responsible for setting up an enterprise.

There are no numerical quotas or economic needs tests regarding the total number of business visitors, in a specific sector, that are allowed entry. UK business visitors are granted national treatment, but not the same treatment as available to residents of or businesses established in other EU Member States (paragraphs 3-4 of Annex 21).

## 2.2 Intra-corporate transferees

Under Article 141 in the TCA, companies located in one party may temporarily transfer certain categories of employees (intra-corporate transferees) to a related company in the other party.

These include senior managers, experienced specialists, or paid trainees who are temporarily seconded to a representative office or a subsidiary or other legal entity which has legal links to a business established in their home country.

The length of stay of managers and specialists is limited to three years. Traineeships are limited to a period of one year. Work permits may be required, depending on the laws of the individual countries.

Certain requirements must be fulfilled in order to qualify for the category of intra-corporate transferees (Article 140(d)). For example, managers are required to have worked in senior positions in their home company.

Specialists' qualifications are assessed by considering their knowledge, experience and professional qualifications required for the position. Prior to their transfer overseas, both managers and specialists must have worked for the respective company for at least a year. Trainees are required to possess a university degree and have worked for the company for no less than six months. Specific reservations also apply.

Annex 23, particularly paragraph 2, contains commitments to streamline the administrative procedures for visa and work permit applications. It allows intra-corporate transferees to be accompanied by their partner, children and family members.

The UK has its own Immigration Rules. Its Representative of an Overseas Business visa and the Intra-Company Transfer Visa are broadly like the business visitor for establishment purposes and intra-corporate transferee provisions of the TCA, though the UK's provisions are currently more generous than the TCA requires (see Box 1 below).<sup>9</sup>

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<sup>9</sup> Addleshaw Goddard LLP, [The Trade and Cooperation Agreement - what are the mobility implications?](#) 31 January 2021 (accessed 4 February 2021)



## 2.3 Short-term business visitors

Short-term business visitors (Article 142) can stay in the other party's territory for up to 90 days in any six-month period. This is if they are not selling goods to the general public or providing services directly to consumers during their stay.

Short-term business visitors are allowed entry to carry out certain, "permitted" activities which are listed in paragraph 8 of Annex 21. For example, they may attend meetings and consultations, carry out independent research, marketing research, participate in trainings, trade fairs and exhibitions, engage in sales or purchase negotiations or other commercial transactions.

Some types of service provision are also allowed under this category (Paragraph 8 of Annex 21). Professional installers, repair and maintenance personnel can provide after-sales or after-lease services as agreed in a prior contract with a consumer from the other party. Also travel agents, tour guides and tour operators, interpreters and translators may work while on a short-term business visit in the territory of the other party.

Generally, short-term business visitors would not require a work permit, would not be subject to an economic needs test or other similar approvals. But certain limitations may apply. These vary by EU Member State, as listed in Annex 21.

Sam Lowe, of the Centre for European Reform (CER), [assesses the activities permitted during short business trips](#):

Crudely speaking, the list of permitted activities shows that while meetings, trade exhibitions and conferences, consultations and research are fine, anything that involves selling goods or services directly to the public requires an actual work visa.

For example, from the beginning of next year a British fashion model could still go to Italy for meetings and to make connections, but if they wanted to take part in a paid fashion show or photoshoot, they would need to obtain an Italian work visa.

Similarly, touring musicians will now possibly need to get a work visa (or multiple work visas) if they are to gig in venues across the EU.<sup>10</sup> Unlike after-sales repair or interpreters' services, their activities are not included in the list of permitted activities. See section 4 below.

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<sup>10</sup> Lisa O'Carroll, The Guardian, [Committees, visas and climate change: Brexit experts' verdicts on the deal details](#), 28 December 2020

## 2.4 Contractual service suppliers

This category covers professionals employed by a business of the home country, which have a contract (other than through a placement agency) to supply a service to a final consumer established in the host country.

The contract must require temporary presence to deliver the service abroad. The maximum length of stay in the other territory is a cumulative period of 12 months, or for the duration of the contract, whichever is less (Articles 140.5(b) and 143).

A contractual service provider is required to have been employed by the sending company for at least a year immediately before their application for entry. They must possess at least three years of relevant professional experience, a university degree, or a relevant professional qualification.

## 2.5 Independent professionals

Independent professionals, in the context of the TCA, are individuals who are officially established as self-employed in their home country before their travel and have a contract with a final consumer in the host country (Article 140.5(c)).

An independent professional may stay in the host territory for a cumulative period of 12 months, or for the duration of their contract, whichever is less (Article 143).

Further conditions apply. An independent professional must:

- have not set up a business in the other party
- have a bona fide contract (other than through a placement agency) for a period of less than 12 months to supply a service to a final consumer in the other party. This contract must require the presence of the independent professional to deliver the service.
- possess on the date of their application for entry and stay in the other party:
  - at least six years of professional experience in the relevant activity
  - a university degree **or**
  - a qualification demonstrating knowledge of and equivalent level; and
  - the professional qualifications legally required to exercise that activity in the other party.

The provisions for independent professionals do not give rights to people who seek work, or would like to establish themselves as self-employed, in the territory of the other party.

Contractual service suppliers and independent professionals from EU Member States applying for a stay in the UK must follow the T5 (Temporary Worker) International Agreement worker route.

[Addleshaw Goddard LLP](#) explains that, unless the activity falls within business visitor rules, the UK business receiving the services is required to have an A rated sponsor licence for T5 (Temporary Worker). The applicant must be eligible to apply under the T5 route.<sup>11</sup>

## 2.6 Limitations and practical implications

In practice, the ease of business travel will depend on specific exceptions and reservations (i.e. the excluded or restricted categories) listed in the annexes to the agreement. UK business travellers will have to meet those for each of the EU countries they plan to visit and/or deliver services in.

### **Business travel for establishment purposes, intra-corporate transfers and short-term business visits**

Provisions regarding business travel for establishment purposes, **intra-corporate transfers and short-term business visits** apply to all sectors. At the same time, the EU and individual EU Member States have made reservations, which vary from country to country. For example, whereas the TCA grants a 90-day work permit-free access for short-term business visitors in any six-month period (Article 142.4), some Member States have included requirements of work permits and economic needs tests. The UK has made a small number of reservations. See [Annex 21](#) of the TCA.

Also, short-term business visitors are limited to performing specifically named activities during their visit. These activities, discussed in section 2.3 above, are set out in [Paragraph 8 of Annex 21](#).

### **Temporary business travel of contractual service providers and independent professionals**

While the investment and trade in services provisions of the TCA are generally open to all services sectors, with a number of country-specific exclusions and

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<sup>11</sup> Addleshaw Goddard LLP, [The Trade and Cooperation Agreement - what are the mobility implications?](#) 31 January 2021 (accessed 4 February 2021)

limitations, temporary business travel of **contractual service providers and independent professionals** is limited to certain sectors and sub-sectors.<sup>12</sup>

Each Party has listed these sectors in Paragraph 10 of Annex 22 for contractual service suppliers and Paragraph 11 for Independent professionals.

The lists include for example, legal services, accounting, engineering, various other professional and business services, research, medical services and many more. However, it does not include creative or artistic services such as photography or musicians.

In addition, Paragraph 12 of Annex 22 contains reservations (exemptions) by sector made by the EU and its Member States. These include economic needs tests or professional knowledge requirements.

The UK has made no reservations, but its commitments related to some sectors are “unbound”, which means that the UK reserves the right to introduce or maintain restricting measures in the specified sector (Paragraph 13 of Annex 22).

### Extra requirements

On top of the reservations, each party may adopt or maintain measures relating to qualification requirements, technical standards, or licensing (Paragraph 3 of Annex 22).

Economists from Sussex University UK Trade policy observatory, Ingo Borchert and Minako Morita-Jaeger, have observed that 14 of the 27 EU Member States apply economic needs tests before accepting foreign independent professionals who offer legal advisory services in public international law and home jurisdiction law.<sup>13</sup>

Sam Lowe, of the Centre for European Reform, notes that in practice, providing service may be more burdensome than what “permitted by the TCA” suggests:

Different EU member states have their own immigration regimes, which might allow additional activities or apply further conditions. Austria, for example, requires a work permit for market research. There also might be additional necessary criteria, such as a recognised qualification.<sup>14</sup>

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<sup>12</sup> This so-called negative list approach used in free trade agreements means that trade is liberalised across the board, with the exempted sectors listed separately. The opposite approach of ‘a positive list’ names the sectors which are liberalised. The remaining sectors are excluded from the commitments of the trade agreement. The WTO [General Agreement on Trade in Services](#) uses a positive list approach.

<sup>13</sup> Ingo Borchert and Minako Morita-Jaeger, [Taking Stock of the UK-EU Trade and Cooperation Agreement: Trade in Services and Digital Trade](#), UKTPO, Briefing Paper 53, January 2021

<sup>14</sup> The Guardian, [Committees, visas and climate change: Brexit experts' verdicts on the deal details](#), 28 December 2020

## Box 1: Relevant UK visa categories

The UK implements the mobility commitments in the TCA through provisions in the Immigration Rules. The TCA has not resulted in any new immigration commitments for the UK.

[A range of visa categories](#) provide for the different categories of traveller covered by the TCA. For example:

1. [Business visitor](#) rules
2. [Intra-company visas](#)
3. T5 Temporary Worker – [International Agreement Worker](#)
4. [Representative of an Overseas Business](#)

## 3

## Commentary

Ingo Borchert and Minako Morita-Jaeger of the UK Trade Policy Observatory say the provisions for business travel in the TCA offer more than the general WTO GATS framework, that would apply if there were no free trade agreement with the EU:

For example, the categories of independent professionals, short-term business visitors and graduate trainees do not exist under the WTO/GATS. Also, the TCA facilitates short-term business trips and includes liberal provisions for intra-corporate transferees (and their dependents) as well as other classes of temporary movers.<sup>15</sup>

At the same time, they note that the TCA falls considerably short of free movement within the single market. Mickaël Laurans, Head of International, Law Society of England and Wales says that “on the mobility point and fly-in, fly-out [services], it is a massive change compared to free movement of people.”<sup>16</sup>

Borchert and Jaeger predict that the provisions on short-term business travel will mostly benefit large, multinational businesses, and highly skilled professionals. They think that small and medium-sized businesses might struggle with the “bureaucratic fixed costs of compliance” and will be less able to use the intra-company transfer route as many of them do not have affiliate enterprises abroad.<sup>17</sup>

Giving evidence to the House of Lords EU Services sub-committee, George Riddell, Director of Trade Strategy at Ernst & Young has seconded the concern for small and medium sized businesses. He calls for additional support with getting the right information to businesses to help them navigate the new rules:

... although in the popular imagination it is the EYs, the Deloittes and the KPMGs of the world that dominate the sector, in the latest statistics somewhere between 85% to 90% of the employment in the sector is in small and medium-sized firms. They, too, will have to adapt to these new rules, and in many cases they do not have the capacity to do so in the way some of the medium to larger-sized players in the market have.<sup>18</sup>

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<sup>15</sup> Ingo Borchert and Minako Morita-Jaeger, [Taking Stock of the UK-EU Trade and Cooperation Agreement: Trade in Services and Digital Trade](#), UKTPO, Briefing Paper 53, January 2021

<sup>16</sup> HL EU Sub-committee on EU Services, [Uncorrected oral evidence: Future UK-EU relations: trade in services](#), 28 January 2021, Q26

<sup>17</sup> Ingo Borchert and Minako Morita-Jaeger, [Taking Stock of the UK-EU Trade and Cooperation Agreement: Trade in Services and Digital Trade](#), UKTPO, Briefing Paper 53, January 2021

<sup>18</sup> HL EU Sub-committee on EU Services, [Uncorrected oral evidence: Future UK-EU relations: trade in services](#), 28 January 2021, Q26

## 4 Case study: UK musicians in the EU

### 4.1 Size of the music industry

According to the Musicians Union, the music industry is worth around **£5.8 billion** to the UK economy<sup>19</sup>. UK Music, an umbrella organisation, states the industry supports 200,000 jobs and generates £2.9 billion in exports.<sup>20</sup>

The Association of British Orchestras (ABO) stated that in 2019, [the UK's orchestras generated 12% \(£8.4 million\)](#) of their total earned income from touring the EU<sup>21</sup>. The Association added and that “half of our musicians earn half their income in the European Union” in a House of Lords debate on the issue ([809](#)).<sup>22</sup>

### 4.2 Impact of the TCA on musicians touring Europe

As of 1 January 2021, UK musicians can no longer travel and work freely across the EU. While the UK and EU said they had both put forward proposals for visa-free travel for touring musicians, no agreement was reached.<sup>23</sup>

In response to [a PQ](#) in February, Caroline Dinenage, Minister of State for the Department of Culture, Media and Sports, explained the Government's perspective:

During the negotiations, the EU tabled a declaration accompanying their proposals on visa-free travel. The declaration identified which paid activities could be allowed as part of visa-free visits. However, these proposals would not have addressed the creative and cultural sectors' concerns. The proposals were non-binding, did not include touring but only 'ad hoc' performances, did not include technical staff, and did not address work permits. The EU's proposals were also part of a package on visa-free travel that was not consistent with the UK's manifesto commitment to take back control of our borders.

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<sup>19</sup> HL EU Services Sub-Committee, [Inquiry: Future UK-EU relations: trade in services \(oral evidence session\)](#), 21 January 2021, p3

<sup>20</sup> UK Music, [UK Music Reaction Following Meeting With Culture Secretary](#), 21 January 2021

<sup>21</sup> ABO, [ETA & Brexit Briefing](#), 3 February 2021

<sup>22</sup> HL Deb volume 809, [Music Sector: Working in Europe](#), 3 February 2021, cc2157

<sup>23</sup> Laura Snapes, The Guardian, [Brexit touring row: UK proposals not fit for purpose, says EU](#), 14 January 2021

David Herszernhorn, Politico, [UK refused deal on post-Brexit travel for musicians, says Barnier](#), 15 January 2021

During our negotiations with the EU, the UK proposed measures, reflecting the views of the music industry itself, that would have allowed musicians to travel and perform in the UK and the EU more easily, without needing work-permits. This would have delivered an outcome that is closer to the UK's approach to incoming musicians, artists and entertainers from non-visa national countries, such as EU Member States and the US. Regrettably, these proposals were repeatedly rejected by the EU.<sup>24</sup>

The BBC quoted the EU's Chief negotiator Michel Barnier saying he very much regretted that "the British didn't have more ambition for people's mobility". He added that from March 2020, the EU had made "fairly ambitious proposals in terms of mobility, including for specific categories such as journalists, performers, musicians and others" but the UK had not accepted them.<sup>25</sup>

Politico has provided a detailed [account of both sides negotiating proposals](#).<sup>26</sup>

## What's changed?

The lack of specific provisions in the TCA means that musicians have to comply with regulations in each of the 27 EU Member States, which often differ from each other. For example, a musician would need to apply for a permit in order to perform in Spain, whilst this would not be necessary in France.

Current guidance on GOV.UK provides information for musical artists and accompanying staff on [Working, performing and touring in Europe](#) (7 May 2021), including information on work permits. In addition, the government is developing other [sector specific 'landing pages'](#) for GOV.UK, aimed at other creative sectors.

The Government is also in conversation with individual EU Member States regarding touring issues, and has established that in 17 out of 27 Member States, "[some touring activities are possible without visas or work-permits](#)".<sup>27</sup> [The Incorporated Society of Musicians \(ISM\) has identified](#) Portugal, Spain, Austria, Latvia, Greece, and the Czech Republic as requiring UK musicians to obtain a visa for paid work. In some other EU Member States the situation is unclear.

Alongside the rules for touring musicians, additional paperwork may be required to transport equipment or instruments, which could incur costs. For example, an [ATA Carnet](#) (a customs document) may be required if

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<sup>24</sup> Written Question UIN 146865, Department for Digital, Culture, Media and Sport, [Musicians: Visas](#), 1 February 2021

<sup>25</sup> Paul Glynn, BBC, [EU blames UK after outcry over end to visa-free touring for musicians](#), 14 January 2021

<sup>26</sup> Anna Isaac, Politico, [How performers lost out in 'eye for an eye' Brexit talks](#), 18 February 2021

<sup>27</sup> PQ 12299 [[Musicians: EU Countries](#)], answered on 11 June 2021



instruments or equipment are transported unaccompanied (not in personal baggage or vehicle). An [Economic Operators Registration and Identification number \(EORI\) number](#) is required to sell merchandise. More information can be found in [a flow chart](#) created by the Musicians Union to guide musicians who are travelling to the EU. See also [guidance by the Incorporated Society of Musicians](#).

## Industry response

The lack of agreement was criticised by over 100 musicians, including by Sir Elton John. In a letter published in The Times on the 20 January 2021, the musician [stated](#) the Government had “shamefully” failed the performers of the UK.<sup>28</sup>

Subsequently Elton John had a “[very positive](#)” discussion with the Culture Secretary Oliver Dowden, but said that the ability to tour without a visa was currently not ‘on the cards’.<sup>29</sup> Other famous musicians have spoken out against the current arrangements for touring the EU.<sup>30</sup>

In January 2021, Oliver Dowden MP established a DCMS-led Working Group with sector representatives and other key government departments, to assist businesses and individuals to work ‘confidently’ in the EU.<sup>31</sup> Since then the working group has been exploring several options to support touring artists, including a proposal for a new [Cultural Export Office](#). The DCMS is also [working to improve guidance](#) “to help artists understand what’s required in different countries.”<sup>32</sup>

## Calls for an EU-wide visa waiver agreement

On 8 February 2021, the House of Commons held an [e-petition session](#) on arrangements for UK Musicians in the EU, in response to this [petition](#).

The petition called upon the Government to negotiate a free cultural work permit that gives visa free travel throughout the 27 EU states for music touring professionals, bands, musicians, artists, TV and sports celebrities that tour the EU to perform shows and events & ATA Carnet exception for touring equipment.

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<sup>28</sup> David Sanderson, The Times [may require subscription], [Ed Sheeran and Elton John attack ‘Brexit deal that fails musicians’](#), 20 January 2021

<sup>29</sup> BBC, [Sir Elton John lobbies Culture Secretary Oliver Dowden over EU touring](#), 3 February 2021

<sup>30</sup> Nick Reilly, NME [New Musical Express], [Leave-voting Bruce Dickinson criticises government over Brexit impact on musicians](#), 28 June 2021; The Guardian, [‘Our ministers are philistines’: Elton John outraged as Brexit hits musicians](#), 27 June 2021

<sup>31</sup> HL Deb vol 809, [Music Sector: Working in Europe](#), 3 February 2021, cc2156

<sup>32</sup> PQ [182004 \[Music: Exports\]](#), answered on 26 April, PQ [180913 \[Music: Exports\]](#), answered on 21 April 2021

Representatives of music and other creative industries have asked for a comprehensive solution, such as an EU-wide visa waiver agreement.<sup>33</sup> The House of Lords EU Committee [called for a “bilateral and reciprocal agreement”](#) on mobility of touring performers in its report *Beyond Brexit: trade in services*.<sup>34</sup>

The Government has so far dismissed a bespoke visa waiver. Caroline Dinenage said on 25 March that a visa waiver requires a renegotiation of the TCA. The Government expected that the EU would be likely to seek “a wider package with a binding non-discrimination clause.” A reciprocal visa waiver agreement would have to cover all current and future Member States. That would be incompatible with the Government’s manifesto commitments to retain control of UK borders.<sup>35</sup>

In April, [the ISM published a briefing](#) in support of an EU-wide visa waiver agreement, including a draft agreement text.<sup>36</sup> Lord Frost, Minister of State at the Cabinet Office, responsible for the relations with the EU, said that he did not think it consistent with “our requirement to retain discretion over our own immigration arrangements.”<sup>37</sup>

The Digital, Cultural and Media Committee has held three evidence sessions in February and June 2021, examining [EU visa arrangements for creative workers](#).<sup>38</sup>

## 4.3

## EU musicians in the UK

The UK’s Immigration Rules provide for musicians to travel and tour in the UK.

As ‘non-visa nationals’, EU nationals do not need to apply for a visa in advance of travel to come to the UK as a visitor. The UK’s rules [for visitors](#) enable EU musicians to give performances, take part in competitions and promotional activities in the UK without a visa for six months, as long as they

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<sup>33</sup> Digital, Culture, Media and Sport Committee, [Formal meeting \(oral evidence session\): EU visa arrangements for creative workers](#), 16 February 2021

Sky News, [Brexit: Artists and performers call on Boris Johnson to provide clarity on touring visas](#), 28 April 2021

<sup>34</sup> HL EU Committee, 23rd Report of Session 2019–21 [Beyond Brexit: trade in services](#), HL 248, 24 March 2021, paras 212–214

<sup>35</sup> PQ 172035 [[Entertainers: EU countries](#)], answered on 25 March 2021

<sup>36</sup> Incorporated Society of Musicians briefing, [A bespoke visa waiver agreement for the creative and cultural sector](#), April 2021

<sup>37</sup> [HL Deb 24 June 2021 \[UK and EU Relations\]](#), c389

<sup>38</sup> Cristina Gallard, Politico, [UK Brexit minister takes swipe at Elton John over artists’ touring woes](#), 29 June 2021

are only claiming expenses or prize money.<sup>39</sup> If they are getting paid, this time is reduced to one month ([Permitted Paid Engagement](#) rules).<sup>40</sup>

There are some work visa categories relevant to people wanting to come to the UK for longer-term work in the arts and culture/creative sectors: the [Global Talent](#), [T5 Temporary Worker – Creative and Sporting](#) and [Skilled Worker](#) visas.

These all require the applicant to be endorsed or sponsored by a Home Office-approved body/employer. The T5 Creative and Sporting and Skilled Worker visas also require the applicant to have a job offer. Under the T5 Creative and Sporting concession, non-visa nationals coming to do [qualifying work](#) in the UK for three months or less do not need to apply for a visa in advance of travel.

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<sup>39</sup> In this context, ‘EU’ includes EEA and Swiss nationals, but does not refer to Irish nationals (who have immigration and residence rights deriving from the Common Travel Area arrangements)

<sup>40</sup> Andrew Trendell, NME, [Culture Secretary Oliver Dowden: “It was the EU letting down music on both sides of the Channel – not us”](#), 13 January 2021

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