



<p>Joint Position of the European Sectoral Social Partners in the Live Performance Sector</p> <p>Regarding the Proposal for Revision of the Visa Code</p>
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Brussels, 6 July 2018

1. Introduction

The European social partners of the live performance sector, represented by EAEA and Pearle, have taken note of the Commission proposal of 14 March 2018 (COM (2018) 252 final) amending Regulation No 810/2009 establishing a Community Code on visas.

In the framework of the European social dialogue committee 'live performance', social partners have had regular exchanges with the European Commission, DG Home. At the last working group meeting of 11 June, social partners shared their views on the revision of the Visa Code.

European social partners welcome the proposal of the Commission to improve the procedures and conditions for processing visa applications and issuing visas.

The live performance sector is a very international and highly mobile sector, with artists and cultural professionals performing and working around the world. This allows them to develop their careers and reputation, whether as individual artists or touring groups, and contributes to the European and international¹ objectives on cultural diversity.

According to the Commission impact assessment 16% of applicants named participation in political, scientific, cultural, sports or religious events, as purpose of travel. With 43% of respondents travelling to the Schengen area for tourism purposes, a major objective for foreign visitors is to enjoy the rich cultural offer in Europe. The combination of cultural exchange and economic benefit generated by the cultural sector must therefore be duly taken into account by the European Institutions.

¹ See the Unesco-convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005

As a general principle, social partners emphasise that the conditions for travelling to, as well as touring and performing in, the Schengen area, as well as for travelling in and out of the Schengen area, have to be as transparent and as clear as possible for third country nationals. This applies equally to all third-country nationals, whether visa-exempt or requiring a visa, as the rule not to exceed the stay of 90 days in a 180 day period applies to all third-country nationals.

It is in this context that social partners would like to call upon the European Institutions to **take note of the need in certain specific sectors**, such as the live performance sector, **to be able to exceed** -subject to conditions - **the rule on a maximum stay of 90 days in any 180-day period**. As was highlighted in the context of the touring visa proposal of 2014, this rule limits the touring opportunities of third country nationals and fails to take account of the nature and needs of work in the live performance sector. In the Communication on the Delivery of the European Agenda on Migration², the Commission announced the withdrawal of that proposal but did not provide an alternative or new action.

Social partners therefore call upon the Commission to include in the Commission Work Plan for 2019 a further reflection on this matter.

2. Specific comments

Having noted the proposed changes, social partners call upon the European Institutions to pay attention to the specific needs of artists and cultural professionals and of the EU-based cultural organisations which host third-country national artists and groups.

As regards the proposals made by the Commission, the European social partners 'live performance', hereafter present their views on specific elements of the EU Visa Code.

Article 1, Objective and scope

In general, social partners would like to see a possibility added for specific categories of applicants, such as artists and cultural professionals, to be able stay longer than 90 days in any 180 day period in the Schengen area on the basis of proof of scheduled activities.

Article 5, Member State competent for examining and deciding on an application

The Commission proposes to change the Member State to be competent in paragraph 1b, into: *'if the visit includes more than one destination, or if several separate visits are to be carried out within a period of two months, the Member State whose territory constitutes the main destination of the visit(s) in terms of length of stay, counted in days, or'*

² COM (2017) 558 final of 27 September 2017

Social partners regret that the criterion on 'purpose of stay' is proposed to be deleted on the grounds of disagreement among Member States about competence. Where an individual artist is invited to take up an employment contract, the competent Member State should be the one where the employer is based, as this is the most natural link between the competent Member State and the organisation inviting the third country national.

Therefore the **text could be amended**, adding:

'or, the Member State where the host organisation or employer is based'

Article 9, Practical modalities for lodging an application

Social partners welcome the proposal of the Commission to lodge an application up to six months in advance of the date of the intended visit, instead of three months, as in the past. This will give more flexibility to the third-country national to lodge the application according to the agenda and tour plans of the person concerned.

In addition, **social partners welcome** the Commission proposal to replace paragraph 4 and include (c) applications may be lodged by a professional, cultural, sports or educational association or institution on behalf of its members.

Indeed, it is common practice in the cultural sector that organisations collect all the necessary information, complete the application files and submit the applications on behalf of the members of the group.

Article 10, General rules for lodging an application

Social partners welcome the Commission proposal to replace paragraph 1 which would only require an applicant to appear in person for the collection of the fingerprints, instead of each time when lodging an application. This will save time and costs for artists and cultural professionals who often have been confronted with difficulties to arrange meetings due to their performance schedule.

Article 11, application form

Social partners welcome the Commission proposal to allow an application to be submitted electronically and for the form to be available in the official language(s) of the Member State where the visa is requested and the host country.

Article 14, supporting documents

In practical terms it remains a difficult issue to give proof of accommodation and of purchase of the flight tickets as long as the applicant is not sure whether the visa will be issued. As a consequence, As a consequence, should the visa not be issued, the cost of the pre-purchased tickets may not be recovered and thus be a lost investment.

A proof of reservation of hotel or other accommodation and intended flight schedule should therefore be accepted as sufficient in the application process.

Article 16, Visa fee

Social partners object to the increase of the visa fee from 60 to 80 Euros, as groups in particular will be confronted with a substantial increase for the totality of the group. In many cases the costs are also carried by the European organisers that host performances of foreign groups, which then will have an impact on the ticket prices for audiences and thus would go against the European objectives to allow for all citizens to access culture.

In a similar manner, there should not be an increase of the visa fee from 35 to 40 Euros for children that form part of the touring group.

Member States should be bear in mind that the revenue earned thanks to the spending of tourists visiting festivals, theatres and concert halls in Member States belonging to the Schengen zone provide much more income for government than the increase of a visa fee.

Therefore social partners call upon the European Parliament and the Council to bear those considerations in mind.

Social partners call upon the co-legislators **either to fully reject** the proposal for increase, **or to include an amendment** to maintain the visa fees of 60 Euros (respectively 35 Eur for children) in the case of Schengen visa application **for groups** travelling for artistic, sports or educational purposes.

Article 23, decision on the application

Social partners welcome the shorter decision time (from 15 to 10 calendar days), but would prefer in paragraph 2 to maintain the duration of 30 days in individual cases. If according to the Visa Information System a decision can be taken in an average period of 5 days, it should not be necessary to take 15 extra days to decide on individual cases, in particular as the Visa Information System is currently also under revision and will be improved.

Article 24, multiple entry visa

The Commission announced that the new proposal on multiple entry visa would harmonise rules to prevent visa shopping and to reduce costs and save time for Member States and frequent travellers. Regular travellers with a positive visa history can gradually increase the validity of a multiple entry visa from 1 up to 5 years.

Social partners have serious concerns on this proposal. Artists that regularly come to perform in the Schengen area to play with music ensembles, dance groups etcetera, would be seriously affected by such rigid system as it would hinder the work flow for artists regularly invited to perform in Schengen Member States.

Social partners are of the opinion that the attempt to harmonise the rules on multiple entry visa by the Commission would be highly impractical and create unclear situations both for the hosting organisation(s) as well as the third-country national. In other words, the criteria proposed are far too complex and promise to be a hindrance in practice to benefitting from a MEV.

The Commission's impact assessment describes that the low share of MEVs among the total number of visas imposes unnecessary restraints to economic growth and means that frequent travellers have to apply over and over again, which is an administrative burden not only for the applicants, but also for the consulates.

If the Commission aims to tackle visa shopping, fraudulent information or supply of documents, the question is whether the right tool is the introduction of a cascade system which will affect bona fide travellers and those that need a visa to be able to execute their professional activity. A legitimate and bona fide traveller who has obtained at least one visa in the past and who can give proof of the need for a multiple entry visa on the basis of planned performances and job offers should be able to obtain a MEV without being subject to a cascade system.

This is justified, as a traveller who obtained at least one visa passed a thorough scrutiny test on security risk. It is unclear what the reasons are for a traveller to first obtain three single entry visas within the previous two years before being able to apply for a one year valid MEV.

Such a complex system will lead to repeated applications for a single entry visa, meaning the costs for the applicant and the workload on consular services will significantly increase.

Therefore social partners call upon the European Parliament and Council **to maintain the article 24 of the 2009 Visa Code, or to simplify the proposal substantially** as follows: 'multiple entry visas with a long validity shall be issued, provided that the applicant has obtained and lawfully used a visa within the previous year', the paragraph 1 and 2 to be kept.

3. Conclusions

Social partners welcome the general improvements made by the Commission in the new visa code, including shorter terms for decision, easier application procedures and the possibility to lodge applications by cultural organisations.

Social partners object to the proposal to increase the visa fees and to introduce a complex cascade application procedure to obtain a multiple entry visa.

Social partners call upon the Commission to include in the Work programme 2019 a further reflection on the needs of the live performance sector to be able to extend the duration of the short term Schengen visa which restricts touring to the rule of staying maximum 90 days in a 180 day period.

The European sectoral social dialogue 'live performance'

The European social partners are represented by **PEARLE*-Live performance Europe**, the Performing Arts Employers Associations League Europe, and the workers in the sector represented by the **EAEA**, the European Arts & Entertainment Alliance, composed of composed of FIM (International Federation of Musicians), FIA (International Federation of Actors) and UNI-MEI (European Federation of creative, technical and administrative workers in the entertainment sector). The three workers organisations have international constituencies and Pearle also has non-European organisations associated.

Social partners meet 3-4 times per year in a sectoral committee of the 'live performance', facilitated through the European Commission, DG Employment – Industrial relations and social dialogue unit. The work programme 2018-2019 comprises six headings of which one large heading focuses on mobility issues which may have important consequences for the live performance sector.

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