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This short document/press release outlines an idea made public by me at an evidence-based committee of the UK parliament in 2021 after a debate on visas and work permits via a petition started by Tim Brennan.

This is now presented in light of events since the pandemic and most recently comments by Lord Frost at a recent speech in Zurich, which leads to an opportunity first outlined in an earlier version of this document widely shared in government, DCMS and the media. This also mirrors a proposal from ISM (incorporated Society of musicians, and widely supported via prior consultation with many stakeholders including the MU / LIVE / UK music and many others for a VISA waiver scheme for unlimited access to the Schengen area . This is not the same as unlimited access to the EU and its sovereign countries for work purpose's as the EU cannot decide that for individual countries, however it can for access to the area as a whole.

The relevant referenced parts of lord frosts speech are as follows

**CHURCHILL LECTURE BY LORD FROST OF ALLENTON,**

**1830, 15 MARCH 2022, UNIVERSITY OF ZURICH, SWITZERLAND**

- *"First, we should take another look at mobility issues. There is a whole set of problems here that is making life difficult on both sides: youth mobility, movement of specialists like musicians and artists, the ESTA-like arrangements that are coming in on both sides soon, and much else. These problems can be solved without compromising the general policy, to which both sides adhere, that free movement does not apply."*

- *"I think we have been too purist on this. We did in fact look last year as a Government at whether we should move to a more pragmatic position, but in the depths of the vaccine wars it was impossible. This time we should try harder. A world in which some categories of specialist service providers can move more freely, where young people's exchanges can get back to normal, and where there are not excessive paperwork and process requirements on tourists or those who have connections across European countries - that is obviously a better one and we should try to get to it "*

Lord Frost's first overlined text provides for the very opportunity for discussion that my original document provided for and his second overlined in blue I would suggest provides for a new paradigm shift in how government might approach this given since Brexit came into full force and a pandemic might lead to another look at attitudes.

This is presented solely on my behalf and does not and should not be seen as an endorsement by any other party. This is a working document, and input is greatly welcomed.

My background is multifaceted: as a UK "registered sponsor" for many years, owner of two international music agencies for 20 years, professional musician, sound engineer, tour manager, manager, producer, promoter and working in multiple art forms for over 35 years. I have worked with high-profile international artists (Grammy winners etc.) and many newcomers and breaking artists.

I have extensive experience of working with and in, many industry bodies both in the UK and the EU; in England with Arts Council England, the Musicians Union and many others.

All of this should be taken into context within the allowance as non-visa nationals (90 days in any 180 days) in both directions and the slightly different allowances that the EU 27 allow as individual sovereign states for work visits within that period. Any such work time is deducted from the 90-day allowance.

## **Context**

The UK, having left the EU, were said to have been in talks with the EU, where contradictory positions were held in providing for an exception for

creatives, in both directions. In some circumstances a wider range of exempted workers for ad hoc work across the whole of the EU Schengen area offered by the EU.

This is reflected in both the EU and the UK's publicly stated positions, the EU requiring an enhanced "mobility" arrangement which conflicted with the UK govts stated aims on taking back control and stopping free movement.

Quote

EU: *"We have made proposals in the draft treaty," Barnier, adding; "We had proposed rather ambitious measures in regard to mobility for journalists, artists, musicians and others."*

"negotiators had put forward proposals to exempt musicians and artists from any new visa requirements or restrictions on short-term work on the Continent. The EU's [draft legal text](#), published last March, included a clear exemption from potential new restrictions for several categories of workers including "sportspersons or artists performing an activity on an ad-hoc basis" as well as "journalists sent by the media of their country of residence." M Barnier

UK GOVT: *"We pushed for musicians to have a reciprocal right to tour without work permits, but that offer was rejected by the EU. Whilst short-term visa-free travel is possible in some circumstances, we will continue to make the case for an arrangement that makes touring easier, and our door remains open to the EU."*

*"We were pushing for an ambitious agreement," the spokesman added, "but that wasn't what the EU was offering."*

Spokesperson for Boris Johnson

## RESULT

It appears (reported) the EU needing access for creatives, and others insisted on no documentation, the UK insisted it had to impose "control" and removing freedom of movement thus imposing a Certificate of Sponsorship (CoS) and using this as the "instrument" of control for the UK. Which is effected by registered UK sponsors as the locus (focus?) of any such control as EU nationals, of course, are Non-visa nationals

My suggested solution allows for both positions to co-exist and perhaps allow for a new "side deal" to be agreed.

### **Current position**

UK ... has put in place a requirement for a CoS (certificate of sponsorship) for all EU creatives bringing them in line with all other NON-VISA nationals worldwide. Also if looking to come into the UK for extended periods of time for a full TWc (temporary worker creative) a requirement to show that they would be eligible which requires £1270 to be available for 28 days before entry OR that the sponsor guarantees the temporary migrant for work purposes maintenance This is in essence identical to the UK exception for seasonal workers. See links below. There are of course two other routes for longer work Tier 5 TWc as described above Permitted paid engagement route ( requiring proof of status and means of financial self-support

Concession now in place for EU Workers coming into UK ( UK Govt website)

<https://www.gov.uk/creative-worker-visa/creative-worker-concession>

Concession in place for seasonal workers coming into the UK ( UK govt website )

<https://www.gov.uk/seasonal-worker-visa/eligibility>

In other words, a CoS (no cost to issue this to the sponsor for EU nationals), is issued by a registered sponsor who has sole authority to issue They do so inputting simple data , address , passport number workplaces etc via the sponsorship management system online. Sponsors also have liability to monitor and keep records of workers movements, work and entry and exit from the UK on time and in line with the CoS validity.

This can be multiple entry and UK immigration will have to note the periods of time the worker visits the UK within their 90 day in any 180 allowance alongside any non-work visits to the UK when the CoS would not be necessary given these are non-work visits.

This exemption is confirmed as 90 days and is stated clearly on the UK govt. website, (NB this is not as noted to be 30 days), so EU creatives need nothing more than a CoS to enter and work.

EU ... Currently there are different requirements from each Sovereign state within the EU and each country / state has to be navigated differently though UK nationals are non-visa nationals and can enter the Schengen area for non-work purposes for up to 90 days in any 180 maximum. Any working period within that allowance notwithstanding any "work permit allowance" needs to be counted and is subtracted from the 90-day allowance.

### **Proposed solution**

Currently the UK has no pre-authorization system in place for non-visa nationals or visa nationals. My proposal would require the UK government to put in place a similar system that would NOT replace the current UK visa system but would run alongside or on top of any such system.

The argument for this is twofold. It increases border security "taking back control of our borders" and allows for "ending free movement" of people, both stated aims of current UK government manifesto promise aligned to the interpretation of the Brexit vote. However, it also frames a possibility where in certain circumstances, as in the provision of the need for a CoS, which currently has no cost in the case of EU nationals in creative arts

It is possible using this new UK system to indicate that the individual is from an exempted profession for the purposes of visa or Certificate of Sponsorship this could be expanded to other professions any government deemed fit to include later and would remove the need for certain routes like the CoS route outlined so far.

The EU are reported to have offered 90 days without the need of any "work permit or visa" for work in ad hoc situations for creatives and others which could have included support staff as in the German state model for example. Given their stated aims under EU aquis and the need to offer this for all EU states irrespective of sovereign decisions on work and access to the market, it would seem that they could not accept the need for documentation for this to be enacted. They also stated that the UK's offer would entail mode 4 where any and all EU states could still enact their requirements for local work permits.

This is now the position we are in under mode 4.

A politically acceptable solution would be in my opinion, now scrap the requirement for a CoS for specified professions. Monitoring could be done

on both sides by a simple declaration when applying for either system, for entry into the UK as a territory and the EU as a territory.

**As it stands entry to either territory is visa free! It is up to the individual to either declare or not their intention to work. Whilst some will abuse this position by entering and working without declaring, it being very difficult to police in either direction due to the nature of the industries concerned except for large scale organisations. A sensible option is made available and control and monitoring is enhanced.**

ETIAS / UK Equivalent (Parity and reciprocity)

Whilst the EU require any trade partners who have visa free access as third country nationals to not erect any other borders to the movement of people, its noted that the EU have and do accept reciprocity of requirements. Thus, the imposition of a UK system in many ways identical to ETIAS would not undermine this position and does not leave any room for the EU to argue that the UK is erecting differential requirements.

It is also true that the stated aims for ETIAS overlined in yellow support an argument for greater control of borders/security and allow for a mechanism to notify the intended purpose of visit in line with the solution offered.

<https://www.schengenvisainfo.com/etias/#countries-need-etias>

- Reduce procedures and application times
- Improve the management of EU country borders
- Assist in detecting and decreasing crime and terrorism
- Impede irregular migration
- Reinforce the visa liberalization policy of the EU

In short

UK : withdraws requirement of CoS and eliminates the problematic PPE route non-visa applicant route ( where the border force officer makes a decision on the spot on production of all the same documents as a visa national would present if applying for the permitted paid engagement route : not the same as visa national route which has same name ) implements better security of UK borders through a complementary system to the UK" s current visa system which this does NOT replace.

Allows for a declaration on said system for a specific profession which the UK can change over time to suit its needs.

EU : Through its own system coming into use Jan1st 2022 and fully in place by 2023 can reciprocate and ( if Michael Barnier and his team had the authority to do so ) introduce the exception offered before the end of the transition period.

This could be done as a "Side Deal" and would not involve in principle reopening the treaty agreement. There can be no argument that the UK is reducing the control of migration or allowing freedom of movement as this is an extra control and that the UK is simply exercising its right to parity with the EU system ETIAS .

As EU nationals and UK nationals can freely visit either territory and can do so if they wish (Illegally) to work. This simple system encourages honesty and in fact greater oversight.

On a final note both ETIAS and any such system for the UK would of course flag anyone who had been deemed to be breaking the law in either direction (which could include illegal working) and could in principle be used to prevent said individual from entering either jurisdiction for a set period of time.

Ian Smith    UPDATED FROM ORIGINAL 27<sup>th</sup> March 2022

February 10th, 2021