

VISAS / *the discordant note*

A White Paper on
visa issues, Europe & artists' mobility

FREEMUSE

ELMF

ECA

*

authors

Ole Reitov & Hans Hjorth

published by

FREEMUSE | ELMF | ECA

31 | 10 | 2008

editor

Ole Reitov

layout

Michael Burke

printed by

Handy-Print | Denmark

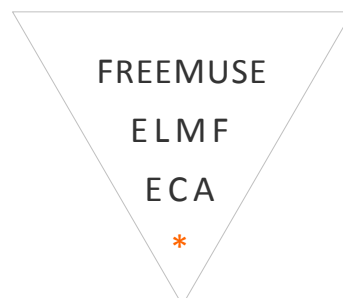
ISBN 978 - 87 - 988163 - 1 - 7

© 2008

VISAS / *the discordant note*

CONTENTS

INTRODUCTION	3
EXECUTIVE SUMMARY	4
MOBILITY, CULTURAL DIVERSITY & VISA ISSUES	5
CURRENT RULES & PROCEDURES	7
METHOD OF THE STUDY	9
CASE HISTORIES	11
CONSEQUENCES	15
RECOMMENDATIONS	16
APPENDICES	
RESPONDENTS	18
NATIONAL INITIATIVES ON VISA ISSUES	19
ABOUT THE AUTHORS	22



INTRODUCTION

The increased challenges facing tour and concert organisers, artists, agents, management companies and others involved with cultural exchange in an international context has emerged as one of the main areas of discussion within the music industries and its wider community.

During the international trade fair *WOMEX 2007* an emergency session focused on complex visa and work permit regulations for artists. The session discussed lack of competence and perceived cynicism at consulate level and time consuming Schengen procedures that result in huge financial expenditure and great frustration for the arts sector and ultimately hampers cultural exchange and the expression of cultural diversity.

FREEMUSE - an independent international organisation which advocates freedom of expression for musicians and composers worldwide - offered to collect and process case histories from the participants and present the results to relevant authorities and institutions in the EU, in particular the EU Commission, The European Parliament, and National and European Artists' Associations.

The initiative was immediately joined by **ECA** - The European Council of Artists, representing organisations of professional artists, authors and performers in 26 European countries and **ELMF** - The European Live Music Forum, representing a number of live music communities such as the International Music Managers Forum IMMF, The Agents Association, The European Arenas Association EAA, The Production Services Association PSA among others and **EFWMF** - The European Forum of Worldwide Music Festivals, a network of world music festivals.

These organisations share common concerns regarding administrative procedures that hinder cultural exchange between Europe and the rest of the world. The organisations equally regard the strong EU support for the UNESCO Convention on Cultural Diversity as an important reference to a practical change of administrative procedures regarding visa and work permit procedures for non-EU artists visiting Europe.

The convention calls upon ratifying countries to “adopt measures in developed countries with a view to facilitating access to their territory for cultural activities from developing countries”.

This White Paper sums up some of the problems and challenges of bringing international artists into Europe, or from one country in Europe to another.

It is the hope that this White Paper will clarify why the EU must change its procedures in order to live up to its obligations under the UNESCO convention. It should also be noted that European artists suffer by virtue of similar procedures applied by the United States of America and others.

EXECUTIVE SUMMARY

The European Community, on December 18th, 2006, ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions along with Austria, Bulgaria, Denmark, Estonia, Finland, France, Lithuania, Luxembourg, Malta, Romania, Slovakia, Slovenia, Spain and Sweden. Since then, Cyprus, Germany, Greece, Hungary, Ireland, Italy, Latvia, Poland, Portugal and the United Kingdom have also ratified the convention. In total, 92 countries have now - according to their national legislations - ratified, approved, accepted or acceded to the convention.

The ratification - hopefully - paves the way for enhanced cultural cooperation at international level, notably through exchanges of views and best practices in public policies to promote cultural diversity.

However, many tour, concert and festival organisers, agents, management companies, cultural organisations and others face increasingly non-transparent, time consuming and costly application procedures at EU embassies overseas and work permit or immigration offices in Europe, when they organise concerts and tours in Europe with artists from non-EU countries. European artists trying to tour the US face many of the same problems.

Some festivals have stopped inviting artists from particular countries due to the unpredictable nature of their visa application procedures. Others continue to struggle, but experience huge financial losses.

European tour organisers have two things in common: they provide Europe with great artistic presentations from non-EU countries enriching the cultural diversity of Europe and they ensure that the European market is kept open for artists from less developed countries thus implementing the principles of articles 14 and 16 of the convention. The same, with the addition that it also applies to European artists, applies to tour organisers on the US market.

This “White Paper” documents some of the major problems faced by artists, organisers and organisations. The problems identified focus on administrative procedures, lack of transparency, lack of harmonisation, costs and ineffective information systems.

The implementation of some of the solutions suggested may seem complex; others may be easily adopted provided there is a willingness to do so. Other reports have suggested a “one-stop system” within the EU; such a system would definitely make life much easier for all involved if this could be introduced within the EU and at EU representations overseas.

As the system works today it has negative effects on cultural relations and often very deep negative effects on the human soul. There is a vast distance between the intentions of the new UNESCO convention and the reality faced by artists and organisers.

Oceans divide the political ambitions expressed in calls for cultural mobility and the harsh consequences of the present visa and work permit procedures.

MOBILITY, CULTURAL DIVERSITY AND VISA ISSUES

Culture is the prism through which we not only can see ourselves, our world and its people today, but also yesterday, tomorrow, and far into the future. Cultural exchange can contribute to mutual understanding and respect, ultimately defusing anxieties and fears stemming from encounters with what might at first appear different and at times frightening. However, there is in this context no need to expand on the values of culture, suffice to hold these as self-evident truths along with the inalienable rights of cultural expression and access to culture in all its shapes and forms.

Nor does this seem to be the time and place to expand on the role of politics. Suffice to say that while politics can improve human lives, defuse conflicts and uplift spirits it can, at its worst moments, do exactly the opposite.

The significance of arts and culture in particular, as regards to forging identities and bringing people together, is recognised by the European Union. *Article 151* of the amended EU treaty not only clearly states that the Community shall contribute to the flowering of the cultures of the Member States but also that “*the Community and the Member States shall foster cooperation with third countries and the competent international organisations in the sphere of culture*” and take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures.

Furthermore, the Community, on December 18th, 2006, ratified the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions along with Austria, Bulgaria, Denmark, Estonia, Finland, France, Lithuania, Luxembourg, Malta, Romania, Slovakia, Slovenia, Spain and Sweden. Since then, all but three of the EU's 27 member states have ratified the convention.

In recognition of the vast problems that many tour, concert and festival organisers, agents, management companies, cultural organisations and others face when presenting artists from non-European countries, the European Parliament in May 2007 called on the EU Commission to “reflect on current visa and work permit arrangements applicable to artists and begin to draw up Community rules in this area which could lead to the introduction of a specific temporary visa for European and third country artists such as already exists in some Member States”¹.

The Parliament stressed the “need to take account of the difficulties currently being encountered by a number of European and third-country artists as a result of visa requirements with a view to obtaining work permits and the attendant uncertainties” and the Parliament pointed out that “artists with short-term employment contracts currently find it difficult to fulfil the conditions for obtaining visas and work permits.”

Problems regarding mobility for artists from non-EU countries coming to Europe and non-EU citizens residing in Europe as artists have further been dealt with by several other organisations e.g. the EU Commission funded “Study on impediments to mobility in the EU live performance sector”².

Cultural exchange and mobility is however not solely a concern from the idealistic perspectives on qualities of life, human interaction and development of understanding and respect between various and varying communities. It must also be recognised to be an area for the conduct of legitimate

¹ EUROPEAN PARLIAMENT: Session document, FINAL A6-0199/2007 - 23.5.2007
Report on the social status of artists (2006/2249 (INI), Committee on Culture and Education
Rapporteur: Claire Gibault, section: Visas: mobility and employment of third-country nationals.

² Study On Impediments To Mobility In The EU Live Performance Sector And On Possible Solutions.
Author/ Researcher: Richard Poláček, Consultant - European Affairs, Gdańsk, Poland
Editor: Pearle* (Performing Arts Employers Associations League Europe)

businesses. According to a recent study prepared for the European Commission³, “The cultural and creative sector is a growing sector, developing at a higher pace than the rest of the economy. The same applies to employment. Indeed this sector provides many different and often high skill job opportunities, and again the sector’s growth in terms of jobs outperforms the rest of the economy.”

The same report states that “In 2003, the turnover of the cultural & creative sector in Europe amounted to € 654,288 million. In terms of value added to the European economy as a whole, it represented 2.6% of Europe’s GDP”. It also states that “In 2004, at least 5.8 million people worked in the sector, equivalent to 3.1% of total employed population in Europe.

Accordingly, the European Live Music Forum ELMF, representing many of the business stakeholders in European music industries, has established a working group on Cultural Diversity, Visa and Work Permit issues involving both artists and production services - incoming and outgoing to and from the European Union including emerging practices of additional regulation by establishing requirements for work certificates. The working group notes that the accumulated effects of the various problems related to visas and work permits now affect all segments of the live music industries.

As mentioned in the introduction of this White Paper, the UNESCO Convention On the Protection and Promotion of the Diversity of Cultural Expressions specifically addresses measures that are relevant to mobility and cultural exchange, e.g.

Article 14 - Cooperation for development

- (ii) facilitating wider access to the global market and international distribution networks for their cultural activities, goods and services;
- (iv) adopting, where possible, appropriate measures in developed countries with a view to facilitating access to their territory for the cultural activities, goods and services of developing countries.

Article 16 - Preferential treatment for developing countries

- Developed countries shall facilitate cultural exchanges with developing countries by granting, through the appropriate institutional and legal frameworks, preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries.

The question “To what extent current legal frameworks of visa and work permits of EU and the individual Member States facilitate preferential treatment to artists and other cultural professionals and practitioners, as well as cultural goods and services from developing countries” need hardly be asked. The answer is all too obvious. It doesn’t!

In fact it places artists and all service providers involved at a severe disadvantage to the extent that cultural exchange and the conduct of business involving artists from developing countries is rapidly diminishing and in some instances has almost come to a standstill.

It is the aim of this “White Paper” to address issues that are relevant to political fora such as The European Commission, The European Parliament and Council of the European Union.

However we would like to point out that it is essential that the visa issues are also resolved at national levels in Parliaments and relevant Ministries. We have therefore included a selective list of national initiatives dealing with visa issues.

³ The Economy of Culture In Europe; October 2006.
http://ec.europa.eu/culture/key-documents/doc873_en.htm

CURRENT RULES AND PROCEDURES

To understand the problems that arise for artists and tour organisers it is essential to point out that whereas most festivals operate within national territories, tour operators work on a transnational basis. A tour can for example, include concerts in France, Denmark, Germany, UK and Spain. As the principle of Schengen visa for visitors travelling in several Schengen countries is based on "application at point of entry" the organisers of tours during one year of work may have to deal with embassies/consular offices representing several EU countries and in this process, to their great misfortune, experience the lack of harmonisation and service provided.

When a tour organiser presents several concerts in different countries they occasionally come up against the fact that certain embassies will apply the principle of "application for visa at the embassy or consulate of the country which is the main destination" regardless of the general principle of "point of entry". To give an example; if a touring band is entering Europe through Frankfurt and have three concerts in Germany and later five concerts in France, the German Embassy in the country of the applying artist may request the artist to apply at the French Embassy. Thus applicants and concert organisers find themselves experiencing a "Kafkaesque" situation.

In practice, the Schengen countries often apply rules and procedures that differ from country to country. As an example countries apply different rules to documentation. When a Schengen country, e.g. Denmark, has not established a visa office in the country of the applicant; another Schengen country can represent Denmark. In this case the applicant (and the concert organiser) will now have to understand the rules and procedures of the representative country, as the country representing Denmark does not apply the Danish procedures. The country representing Denmark, in e.g. the Democratic Republic of the Congo, can request types of documentation from the applicant other than what Denmark would request and vice versa.

Bona Fide/Multiple Entry

Some embassies granting Bona Fide visa (entrance to applicant country only) seem hesitant to grant multiple entry visas for artists although the tour promoters can provide evidence of contracts of several concerts in Europe during a six months period. These concerts may not always be organised in sequence but with some intervals where the artists return to their home country or tour outside EU. If the artists were granted multiple entry visas for Schengen they would not suffer numerous and repeat visits to Schengen embassies and the embassies would avoid "double work".

Consultation period

In some countries embassies are not allowed to grant Bona Fide visa without consulting other Schengen countries. This prolongs the period of processing by several weeks.

Documentation

On their websites embassies and consular services often provide lists of documentation that can be requested. However some countries do not specify which documents (bank accounts, national ID etc) are demanded. For organisers dealing with several countries the paper work is immense.

Period of processing

The time factor is very important for all parties involved. Applicants often find it difficult to track down the staff dealing with an application and the time frame involved in processing is extremely unclear. One Ministerial survey shows that processing of visas for business visits in some countries can take up to 69 days⁴. Whereas international freight companies operate electronic registration systems with a tracking number, it is impossible for applicants to electronically track their visa applications in the systems. As a result, administrators as well as applicants find themselves engaged in several expensive and time-consuming phone calls and repeated visits to embassies or consular offices.

⁴ Danish Ministry of Refugee, Immigration and Integration Affairs:
Report from the working group regarding visa administration, business and tourism, December 2007

METHOD OF THE STUDY

In addition to studying various reports on conventions, mobility and visa rules, correspondence has been entered into with embassies, administrators have been engaged in conversation and case studies have been collected from European tour operators, festivals and artists. The case studies reveal how the respondents experience the current situation. It has not been within the framework of this “White Paper” to challenge the embassies and consular offices with the descriptions, neither have we had the resources to verify the responses to the questionnaire. The responses to the questionnaire give a very nuanced and informative insight into how the current system is understood and experienced by some of the principal operators in Europe.

The respondents were requested to describe briefly how they analyse the structural problems in terms of obtaining visas and work permits for artists coming to EU and/or to Schengen membership nations, or within and between EU countries.

Further, the respondents were requested not only to describe their experiences of visa processing but also the financial consequences of the current system.

Case history observations

Among the most frequently mentioned problems and procedural challenges related to visas and work permits for artists coming to EU and/or Schengen countries were:

- Lack of harmonised visa and work permit application procedures at embassies and consular services across the world, especially when dealing with cultural groups, artists and performers applying for visas/work permits for Schengen/non-Schengen countries.
- Schengen embassies or consular services, in spite of the provisions of the Schengen acquis, often seem to avoid taking overall responsibility for the entire Schengen area. This results in applicants being forced to deal with a number of agencies.
- When artists are faced with a refusal, consulates apparently consider that they have no obligation to explain their decision. This effectively excludes any possibility for appeal. Yet on many occasions, refusal has turned out to be due to simple misunderstandings or mistakes by either the applicant or often, by the consular staff. It has been reported that sometimes when entry has been refused to one of the Schengen countries, the denial has been noted in the Schengen Information System (SIS) categorising the applicant as a third-country national declared ineligible to enter national territory. When this occurs it is difficult, if not entirely impossible, for the artist to obtain entry through other consulates.
- Some embassies or consular services represent other Schengen member states and other countries. Local staff often deals with these issues without knowing the country specific visa-procedures - if any - for cultural groups and performers. Even when staffed with cultural attachés, organisers often find that the attachés have little or very limited knowledge of all the country specific rules/procedures for cultural groups and performers.
- That it is extremely costly and disruptive when, for example artists, agencies or managements need to revise an issued Schengen visa, due to tour-extensions, changes of dates and/or venue et cetera. Artists are required to leave the Schengen area and return home to re-apply or renew the visa at a Schengen representation in their home country.
- The distance often necessarily travelled in accessing embassy or consular services in the artists'/performers' country of origin (or neighbouring country) entails a disproportionate amount of time for travel and is extremely costly for artists. The visa application process is often very time consuming, expensive and the outcome is always uncertain.
- The requirements for biometric information (digitalised photos, finger prints and more) mean that artists need to go through the entire application process including biometrics each time

that they travel abroad, despite being frequent travellers. This is further complicated when biometrics have to be done at embassies or consular services in neighbouring countries.

- Problems arise from the non-harmonisation of categories and 'status' definitions of 'artists' or 'cultural performers'. The complexity of the application and granting of visas is greatly increased, as country representations seldom deal with all of the mentioned 'statuses'. Differences between the Napoleonic system and Common Law further complicate the issue as countries historically affiliated with the former tend to perceive artists as employees while countries more comfortable with the latter generally regard artists as being self-employed. Both systems generally fail to relate to actual business practices whereby artists - whether employed or hired as self-employed - are contracted by an agency, a management company or other service providers within the framework of the Service Directive.
- There is no single information system advising applicants on the procedural differences between Schengen countries.

Compounding the problem is of course that not all EU member states are signatories of Schengen. The United Kingdom, for example, requires an entirely different set of procedures making mockery of the concept of a "European tour".

CASE HISTORIES

In order to understand how current procedures are particularly disadvantageous for touring artists, tour organisers, concert promoters, festivals and many other businesses in the field of music a few case stories might be illuminating.

Case A - File reference VQ001

In early 2007, the German Embassy in Kinshasa refused to issue visas for a group of seven musicians - no explanation was given. The band, which has existed for twenty-five years, had previously toured Europe including Germany on several occasions in 2005 and 2006. As the first performance of the spring tour 2007 was scheduled to take place in Berlin the Schengen visa applications were submitted to the German Embassy. Following the visa refusal by the German embassy time restraints did not allow for new visa applications to be submitted to an embassy of another Schengen member state. Additionally problems arose from the refusal being noted in the Schengen Information System (SIS). A number of scheduled performances in other European countries had to be cancelled in addition to the German dates, amongst them a number of shows in the UK which, although not signatories to the Schengen Agreement Application Convention (SAAC) participate in the Schengen co-operation under the terms of the Treaty of Amsterdam. Adding to the problem was the fact the European tour itinerary included a brief intermission for a number of US appearances by the band. Accordingly, in order to secure the bands availability for the US dates, flight tickets had been bought and paid in full based on a departure from and return to Europe. As the European tour had to be cancelled new flight reservations at great expenses had to be secured from Kinshasa to the US while no refunding could be obtained for the tickets already bought from Europe to the US. The arbitrary nature of visa procedures was evidenced when the Swedish Embassy in New York, after intervention by the Icelandic government, during the bands US tour eventually issued visa documents which allowed them to fulfil their commitment to perform in Reykjavik which were part of the otherwise cancelled European itinerary. Again this had severe economic consequences for the Icelandic promoter as regards the bands' travel costs.

The arbitrary nature of current visa procedures was further illustrated when the band was eventually granted visas for extended European tours in June and October 2007, including performances in Germany in addition to finally being allowed to return in November 2007 for the performance in Berlin for which visas were originally refused.

Case B - File reference VQ002

A group of Sufi musicians and dancers from Gujarat in western India were scheduled to perform in Germany, the Czech Republic and France in October 2007. The group had previously toured Europe extensively in 2004, the US and Canada in 2005 and the UK in 2006. As the first concert on the scheduled tour was to take place in Paderborn, Germany visa applications were submitted to the German Embassy in Mumbai, India. The German Embassy however would not issue Schengen visas because of France requiring work permits, therefore they offered the group to issue Germany-only (non-Schengen) visas valid for the German date only, and referred to the French Embassy for Schengen visa applications.

The French Embassy on the other hand refused to issue Schengen visas because Germany was the first country of entry. The UK based tour organiser managed, after numerous contacts with the various embassies including three personal visits to the German Embassy, to secure Schengen visas valid for the German and Czech dates only while the concerts in France had to be cancelled.

Case C - File reference VQ006

In 2007 a leading exponent of Ghanaian music and his three backing musicians applied for multiple entry Schengen visa to the German Embassy in Ghana and separately to the Swiss Embassy for Swiss visa. The applicant is an artist of international stature and former President of the Musicians' Union of

Ghana, former President of the Copyright Society of Ghana and was 1998 - 2000 Professor of Ethnomusicology at the University of Washington in Seattle, USA, followed by a similar position at the University of Michigan in Ann Arbor. He has also conferred the distinguished title of National Living Human Treasure, as advocated by UNESCO under Convention for the Safeguarding of the Intangible Cultural Heritage, by Ghana's Ministry of Chieftaincy and Culture.

After five personal appointments with the German Embassy the artist and one of the backing musicians obtained the required visas. Visa for the two other musicians were refused, which was noted in their passports. No reason for rejection was given to the applicants. After several contacts with the cultural attaché of the embassy the German based tour organiser was eventually explained that the embassy did not approve local documentation of their artistic work in Ghana and the fact that both were married, residing in Ghana was deemed to be insufficient indications of their intent to return after completing the tour. The embassy required further documents from abroad to prove that two musicians are rooted in Ghana and willing to return back to Ghana after the tour.

After numerous discussions, and possibly due to the fact that the planned tour of in total twenty-four concerts and six lectures was sponsored by the Minister President of North Rhine Westphalia, the German Embassy finally agreed to accept renewed applications from the two musicians with new and supplementary documentation. These applications were then accepted and visas accordingly issued. All in all the process required the bandleader to make a total of nine trips from Kumasi in Ghana's Ashanti region to the coastal capital Accra. While the distance is a manageable approximately 300 kilometres, local transport conditions mean that this requires one full day of bus travel in each directions and an overnight stay in a hotel. The backing musicians each had to make between four and eight similar journeys. The quartet in total spent 54 working days travelling to and from the German Embassy in order to secure visas for one-month duration. The cost to the tour organiser for visas, travels, accommodation and other expenses soared. The inconvenience to the artist and musicians was immense as was the perception of indignities suffered.

Case D - File reference VQ006

A group of Gnawa performers, represented on no less than nine CDs distributed in Europe were scheduled to perform in Germany with a brief intermission in the tour for a few performances in Armenia. The tour itinerary called for flight transportation from Morocco to Germany, from Germany to Armenia and back with a later return from Germany to Morocco. The ensemble, assisted by the German tour organiser, applied for multiple entrance visas to the German Embassy in Morocco. Required documents of invitations and more were submitted with the applications including detailed tour itineraries with exact travel arrangements, dates and ticket references. For unexplained reasons the embassy eventually issued single entry visas. As the applicants were only able to read Arabic and no verbal communication of this fact was given when they collected their visas the unfortunate circumstance was not brought to the notice of the tour organiser.

Having completed the first part of the German tour and having proceeded with the performances in Armenia the ensemble was refused boarding on the booked return flight to Germany because they did not have multiple entry visas.

Only after several days of negotiations with the German Embassy in Armenia, the German Embassy in Morocco, the visa department of the Ministry of Foreign Affairs in Germany and between both embassies in Yerevan and Rabat, the ensemble was finally issued new transit visas. The tour organiser had to pay the full costs of the second set of visas including supplements for express handling of the same, extra fees for changing the dates of the return tickets and the cost of hotel accommodation in Yerevan while the situation was resolved.

Case E - File reference VQ009

One of Mozambique's most revered bands resides in Lichinga, the capital city of Niassa Province in the northern part of the country. They regularly perform abroad, often in the UK. The UK Visa Application Centre - where visa applications have to be submitted and biometric data will be collected - is located in Maputo in the very south of Mozambique, a distance which cannot be covered by road and for which air travel is the only viable option.

Accordingly the eight band members have to fly to Maputo each time UK visas are required to submit their applications, supplemental documentation and have their biometric data collected. The visa applications are then transported to the British High Commission in Pretoria, Republic of South Africa for processing. As this processing normally takes two to three weeks it is not an option for the band to be accommodated in Maputo for the duration. They therefore return to Lichinga to await approval of the applications. The cost of the journey from Lichinga to Maputo and return is approximately € 2,600 each time added to which should be visa fees at approximately € 2,200 for the group. On the last occasion of application for UK visas one band member was initially denied a visa without explanation. The UK tour organisers had to fly the entire band to Maputo for a second time, as all the required biometrics had to be done at the same time. Once all visas were granted the band had to fly for a third time to Maputo to get on their international flight to the UK, which at this point had had to be rescheduled at additional expense and two UK performances had to be cancelled due to the delay in arrival.

Case F - File reference VQ016

A Malian duo has for the past three years toured internationally with great success. Their French tour organisers report more than 350 concerts in this time period and record sales in the region of 500,000 copies. Current UK regulations require that work permit visas are submitted in the country of which the applicant is a national or legally live. Since there is no UK Embassy or visa application centre in Mali the artists are obliged to go to Dakar in Senegal in order to apply for UK visas. As both artists are blind they are unable to travel unaccompanied which further adds to travels and accommodation costs.

The fact that a number of special event appearances, festival performances and other opportunities come up with relatively short notice and at times on occasions where the artists are already on tour elsewhere add to the problems related to the requirement that applications must be submitted where the applicant is a national or legally live. Or in this case in a neighbouring country since no UK representation is available where they do live.

Case G - File reference VQ017

A revered Gambian Kora player and 'Jali' - a storyteller also known as a Griot in the Mandinka language - was invited to Sweden 2007 to perform at an international conference attended by, amongst others, His Majesty King Carl XVI Gustaf of Sweden, then UN Secretary-General Kofi Annan, former US President Bill Clinton and a number of other statesmen, politicians, academics and international industry leaders. The Jali is also a respected scholar and founder of West Africa's first school of traditional music for children.

As there is no Swedish Embassy in Gambia, the Jali had to travel to Dakar in Senegal to submit a visa application, a journey involving one day of travels in either direction in addition to one day in Dakar to visit the Swedish Embassy. The Swedish promoter contacted the embassy in Dakar prior to the Jali's visit and sent all appropriate documentation including flight arrangements, insurance coverage and more. In accordance with current Swedish legislation - specifically that performing artists, their technical staff and other tour staff contracted to work temporarily in Sweden for no more than 14 days during a 12-month period do not require work permits - a written invitation from an established organiser was also attached. Adequate funds to cover visa application fees, the Jali's travel and

accommodation costs for the visit to Dakar and other expenses were transferred to the Jali by Western Union.

The staff at the embassy in Dakar was unaware of current Swedish legislation. The Jali was obliged to submit and pay for an application fee for a work permit in addition to the visa. When the Swedish promoter was informed about this upon the Jali's return to Gambia a number of contacts took place with the Swedish Embassy. Eventually the situation was resolved but the Jali had to return to Senegal once more to fill out a renewed visa application as the first had been administratively tied to the unnecessary work permit application. The Jali then had to return to Senegal a third time to collect the visa when it was finally approved two weeks later. All in all three visits to Senegal, each requiring three days of travel, in order to make the one scheduled performance in Sweden. The costs of travels, accommodation and other expenses in addition to the visa application fees - it should be noted that the fee for the unnecessary work permit was non-refundable even though it had been submitted at the express demand of the embassy staff - were in the end substantial.

A pattern is clearly discernible.

CONSEQUENCES

Most respondents point out the financial losses incurred, when visas are rejected or not provided in time.

Others state that they have stopped working with artists from non-EU countries or from developing countries due to the time-consuming visa procedures and additional risks of financial losses. Some US organisers in a similar manner have reduced, or have entirely stopped, working with artists residing outside of North America.

Almost 80% of the respondents feel that the current visa procedures are damaging the music sector in Europe and collaborations with visa offices in developing countries are neither flexible nor efficient.

Creative companies working with artists from non-EU/non-Schengen countries are often very small. Therefore the extremely time consuming visa procedures may prevent cultural projects from being realised, and several respondents point out that this leads to significant decrease of the cultural diversity on the European cultural scene.

Seen from the perspective of artists from these countries, they lose an important market and essential networking options. As one respondent reflects:

“The rejection of visas reduces the opportunities for artists, sometimes whole families and even whole villages, in less developed countries to rise above poverty and thus lead better lives.”

It is equally important to understand that visa issuing offices - and hence the EU countries - are judged by their attitude to artists. Several European countries wish to improve their cultural and public diplomacy, but many artists are treated with a lack of respect. They experience the paradox of being invited by mayors of European city councils, government-financed cultural bodies in the EU and respected cultural organisations and the contrast on the ground reality once they enter our embassies and are looked upon as potential illegal immigrants. One respondent reflects:

“Visa application procedures have huge human costs. Artists are subject to pointless queuing, often in disgraceful conditions and subject to disrespectful treatment by embassy staff.”

RECOMMENDATIONS

If European countries are serious about honouring their ratification of the UNESCO convention - specifically article 16 - they need to actively make visa / work permit procedures and access to the European market more flexible, transparent and homogenous. An example would be implementing the exemption of work permit requirements for artists, under certain conditions, such as - granted with different set of rules is - currently used in Sweden, the United Kingdom and others on an EU basis. Turkey, although not an EU member, can also be seen as an example.

Another would be the creation of a specific category of short-term, multiple entry visas for touring artists and specify the handling of such in the Common Consular Instructions on Visas for the Diplomatic Missions and Consular Post. As artists, and for that matter athletes, are treated as special cases in other matters - withholding taxation based on article 17 in the OECD Tax Model being a case in point - this would seem to be logical.

In order to do so it is extremely important that ministries dealing with immigration, work permit and visa permits co-ordinate their administrative procedures in respect of, and in collaboration with relevant ministries administering the EU and National Cultural and Development policies.

Regarding Schengen, it is obvious that the current lack of transparency of rules and procedures are a cause of great frustration and additional costs. The establishment of a unified information system for applicants and administrators alike is required.

Further, the development and introduction of a tracking number and a system of electronic registration would add to the transparency and efficiency of the current system.

One stop entry points (where one office, irrespective of entry point to Europe, could handle applications for the whole Schengen area) in combination with multiple entry permits would be an obvious improvement; particularly if the visas / work permits were to be valid for a prolonged period.

Co-ordinating whatever solutions or improvements that can be created within Schengen with non-Schengen signatories such as the United Kingdom seems to be of equal importance from an EU perspective.

Negotiating reasonable, if not reciprocal, procedures between EU and the US in order to safeguard equal market access for artists from each area is another urgent priority.

While long-term solutions are created a few suggestions, based on the questionnaires, for improvements of the current system would be:

- Ensure that all embassies, consulates or other representations are well informed; service minded and follow harmonised procedures, guidelines, standards, papers, documents etc.
- Ensure clear procedures and require that explanations for refusal of a visa must be given when all the procedures are respected, in order to make it possible to enter an appeal in due time.
- Handling of artist visa matters exclusively by the cultural attaché at point of application and not via reception centres in the regular visa department.
- Investigate the possibilities of “world wide recognition” of touring artists' passports.
- Introduction of harmonised biometric data collection for all Schengen and EU countries.
- Implementation of a system that does not require biometrics to be renewed more than every four years.

- Introduce a system that does not require the applicant to apply “in person” once biometrics are established in a central database and that passports/visa applications can be delivered and collected by others representing the artists.
- Ensure a procedure that benefits artists and performers that have worked and/or performed within the EU/Schengen area before, so they don’t have to repeat all of the application procedure each time.
- Initiate a process whereby a “certification system” of European festivals and tour organisers may ensure that these are well established, credible and entitled to respectful and fast handling by visa offices.

Finally the organisations behind this “White Paper” would like to urge all relevant EU bodies to establish a forum involving practitioners, agents and relevant organisations in order to develop quick and practical solutions.

APPENDIX 1

RESPONDENTS		
BELGIUM	Divano Production	Production, management and world booking
	ACV Transcom CULTUUR	Union for artists
DENMARK	Roskilde Festival & Global CPH	Music programming and booking
FRANCE	Marc Antoine Management	Global touring african artists
GERMANY	Alba Kultur	Festival and tour organizer, manager, producer, consultant
GHANA	Nyanla Creation Production	(Okeyman Records) Music production
ITALY	Fondazione Adkins Chiti: Donne in Musica	International foundation and concert organiser
	Tour de Force	Management and booking agency
SPAIN	El Caiman Producciones	International booking and promotion
	Producciones Artísticas Serrano	Artist production
	Levinson-concerts	Booking agent and management
SWEDEN	For Exclusive Artist Representation / FEAR	Event management, artist management
UNITED KINGDOM	Adastra	Music administration
	KAPA Productions	Tour production and artist management
	Poo Productions Ltd	Record label, artist management and film production
	Roots Around the World	Concert promoters and booking agency
INTERNATIONAL ORGANISATIONS		
	ECA	European Council of Artists
	EFWMF	European Forum of Worldwide Music Festivals
	ELMF	European Live Music Forum
	FREEMUSE	The World Forum on Music & Censorship

APPENDIX 2

NATIONAL INITIATIVES REGARDING VISA ISSUES

In several European countries music industry stakeholders, promoters, artists and others have initiated national campaigns addressing the increasing problems related to visa and work permit issues. So far, however, a website or “a pan European office” where all relevant and updated information on rules is available has not been created.

Neither has a pan-European summit - including all relevant partners - been organised to exchange and discuss experiences, strategies and suggestions.

It is not within the mandate of this White Paper to investigate all national rules and procedures, but we would like to mention a few campaigns and initiatives and suggest that relevant European political and administrative bodies consider how they can improve the current situation for artists and organisers.

AUSTRIA

Under the banner of “Abgesagt”⁵ (Cancelled), the IG World Music Network is addressing visa issues in Austria. The network consisting of artists, management companies, booking agencies, promoters, venues, journalists, and festivals working in the world music-genre has since 2006 campaigned for less bureaucratic visa procedures, transparency in decisions and described the negative effects of the current systems. Abgesagt has further initiated online petitions with the purpose of changing the cultural climate which is described as “hostile and inhuman to foreigners” - (kulturfeindlichen and unmenschlichen fremdengestzes).

FRANCE

NGO INITIATIVE

Zone Franche (ZF) is a large network of professional musical organisations (festivals, records companies, producers, artists' organisations etc.).

In May 2008, ZF organised a meeting about “artists circulation” during the festival “Musiques Métisses”, in Angoulême. The meeting included a representative of The French Ministry of Foreign Affairs and festival directors.

The festival directors presented a number of cases where visa procedures had led to cancellations of artistic presentations and huge financial losses to organisers and artists. The meeting presented some of the regulations and procedures that prevent a free flow of professional cultural presentations and some of the obvious paradoxes of official cultural policies.⁶

One of the paradoxes of current policies was pointed out: on one level French organisations such as SACEM and official institutions such as Cultures France support artists in these countries. French Cultural Institutes even promote their art, but when the very same artists are invited to tour France they face several problems regarding visa and work permits.

Didier Le Bret, advisor to the French Ministry of Foreign Affairs, during the meeting recognised that indeed the parts of the French policies could be seen as “schizophrenic” and that there was a need for close collaboration between legislators and culture event promoters.

A few European states have changed some of their procedures as a result of these campaigns. Some initiatives are linked to linguistic/former colonies zones e.g. francophone.

⁵ See www.abgesagt.net

⁶ See www.zonefranche.com/pdf/synthesedebat11mai.pdf

GOVERNMENT INITIATIVE

At the initiative of (now former) French Minister Jean-Marie Bockel, Secrétaire d'Etat chargé de la coopération et de la Francophonie, a committee of 10 African and French artists was created in October 2007, under the name of Comité Génération Afrique.

The committee consisting of well-respected artists and personalities such as Manu Dibango, Yann Arthus Bertrand, Youssou N'Dour and Jane Birkin have put forward various suggestions regarding investment in the arts and culture sector.

As a consequence of discussions regarding mobility of African artists, the French Government - at the initiative of Minister Bockel and Minister of Foreign Affairs, Bernard Kouchner - issued new instructions to its African Visa offices in order to make procedures simpler and more efficient.

The instructions were issued as:

*Délivrance des visas aux ressortissants africains ayant une activité professionnelle à caractère artistique, culturel, universitaire ou de recherche (19 février 2008)*⁷

According to the instructions the visa offices abroad shall distinguish between African artists who already has performed several times in France/resided in France - and are regarded as professional artists - and newcomers.

The initiative allows established african artists to receive multiple visas and work permits for France and has been welcomed by artists as well as organisers.

However, the initiative is also criticised by several organisers and managers presenting “new talents” as they find the rules discriminatory.

The initiative, according to its critics, opens up for French embassies and French Cultural Institutes in Africa to become “judges of taste and talent”, a role the organisers feel more qualified to play.

UNITED KINGDOM

A vast number of artists and music industry organisations have been involved in various initiatives regarding visa issues. Some of these initiatives have primarily been focussing on visa issues for artists from so-called non-visa countries such as America, Canada and Australia.

At a certain stage, there was a fear that new strict visa rules would require artists from these countries too supply biometric data in person at a registered office. However after consultations and lobbying and campaigning the Home Office made a U-turn. Therefore artists coming to UK from a non-visa country for less than three months will not need a visa or permit, but merely a sponsorship certificate.

For artists coming from countries requiring visas procedures however continue to be complex and costly.

⁷ Delivery of visas to African nationals engaged in professional artistic, cultural, academic or research activities (19 February 2008) - <http://www.diplomatie.gouv.fr>

Some of the organisations and industry organisations involved in campaigns, lobbying and consultations in UK are:

- National Campaign for the Arts
- Arts & Entertainment Task Force
- Musicians Union
- Agents Association
- Concert Promoters Association
- Music Managers Forum

The UK Border Agency under the Home Office introduced a new points-based immigration system in 2008. The planned policy for the creative and sporting sub-category within Tier 5 of the points-based system is scheduled to be put into place at the end of 2008. The system is explained on the home page of the Agency at www.bia.homeoffice.gov.uk.

IRELAND

VISUAL ARTISTS IRELAND (VAI)

Barriers to international mobility for artists:

VAI in spring 2008 hosted a public consultation addressing how “immigration rules are creating difficulties for artists requiring visas to enter the UK and the Republic of Ireland.”⁸

VAI expressed concern that:

“Immigration policy and procedures may be compromising our independent decision making around programming and selection of artists we want to work with.”

The public consultation agreed that:

“...a generally inhospitable atmosphere of suspicion and closure... ...suggests that artists and cultural workers, particularly those born in parts of Asia, Africa, The Middle East and parts of Eastern Europe, are being regarded with suspicion and required to provide evidence of artistic credentials that many of us simple regard as unrealistic and inappropriate.”

The consultation also noted that:

“Application systems lack clarity and transparency and with the introduction of outsourcing to commercial agencies like World Bridge official departments are increasingly difficult to contact and are unaccountable.”

⁸ The Visual Artists’ News Sheet Issue 4 2008, Pauline Hadaway: Barriers to international mobility for artists

ABOUT THE AUTHORS

OLE REITOV, Programme Manager, Freemuse, has lectured world-wide on music censorship, cultural policies and cultural diversity. His past experiences include 30 years as a broadcaster with Danish Broadcasting Corporation reporting from all corners of the world, international media and culture consultancies in Mali, India, Gabon, Botswana and Bhutan. He is former chairman of the EBU World Music Workshop, former advisor to the Danish Center for Culture and Development .

HANS HJORTH, Executive Manager of the European Live Music Forum ELMF and Senior Producer at Concerts Sweden. He has a long, weary life in the world of music including tour managing, club ownerships, concert promotion, festival management and artist management. Until recently he served as chairman of the European Worldwide Music Festivals Forum EFWMF.

Europe's cultural diversity is enriched and European audiences are presented great artistic events and performances by European tour operators when they bring to life, the principles of Articles 14 & 16 of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions, by facilitating the opening of the European market to artists from less developed countries.

The convention calls upon ratifying countries to...

"...adopt measures in developed countries with a view to facilitating access to their territory from developing countries for cultural activities".

VISAS / *the discordant note*, presents some of the problems, challenges and difficulties faced by those who bring international artists to tour in Europe.

The problems identified focus on administrative procedures, lack of transparency, the absence of harmonisation and accurate information and the cost of the current, grossly ineffective system.

It is hoped that this White Paper will clarify why the EU countries must change their procedures in order to honour *our* obligations under the UNESCO convention.

published 31 | 10 | 2008

ISBN 978 - 87 - 988163 - 1 - 7

© 2008



www.freemuse.org



www.elmf.eu

ECA

www.eca.dk