



US VISA Guide

A Handbook for Screen Directors



For directors, having a green card can make it faster and easier process for accepting and working on productions with locations based in USA. Here is a guide on getting a USA visa for Irish directors.

Sitting on the western edge of Europe, Irish directors can turn in any direction and find opportunity to expand beyond our island home. While much great success comes from the emerald in the Atlantic, the world beckons, and as the U.S. continues to hold dominion over English-language film, you may hear Hollywood calling in the night. If you feel the urge to venture west, you will quickly learn of the USCIS (United States Citizenship and Immigration Services), who are responsible for assessing and approving visa and green card applications for those who wish to live and work in the United States. For artists, the required work permits are the temporary O-1B or the permanent EB-1. Similar in nature, the O-1B is assessed on outstanding achievement in the arts, while the EB-1 seeks extraordinary ability in the artist.

With both the O-1 and the EB-1, you have the option of self-filing your application or working with an attorney. In either case, filling in the application forms, and sourcing and compiling your evidence (the backbone of your petition) will fall to you. At this point, you or your attorney will use your compiled evidence to write a 25 page petition letter detailing the merits of your career and arguing your case as an artist of extraordinary ability of benefit to the United States. Having had a difficult time with our attorney on our O-1 cases, we made the decision to tackle the EB-1 ourselves - the \$8000 each saving didn't hurt! Since then we've assisted two dozen actors and filmmakers in self-filing their green cards and set up www.artistgreencard.com in 2015 to assist many more.

What is outstanding?

What is extraordinary? The arts are abstract and subjective, and can mean different things to different audiences, so it can be difficult to determine what will and will not qualify. However, the USCIS have a system. It's rigorous and can be tiring, but as with all systems there is a key - and once you have the key, you have the power.

The primary step to being granted a work permit is in proving your eligibility as an artist of outstanding achievement or extraordinary ability. You must establish that you have risen to the top percentage of those working in your field of endeavor in your country, as evidenced by a paper application and supporting documentation, showing that you have received sustained critical and/or commercial acclaim either nationally or internationally. Evidence can include newspaper and magazine articles, interviews and profiles in print or other media (with paper evidence of other media), published scholarly



articles, prestigious memberships within your art form, letters of recommendation from distinguished peers, as well as awards and box office revenue and high salary... Although at times just being employed and making a living in the film industry can take immense effort and commitment, that in itself is not enough to demonstrate extraordinary ability - to the USCIS, making films is a filmmaker's day job.

So what is the extra in extraordinary? If we look to American film for an answer, we'll find a young hero seeking acceptance into a prestigious Ivy League school... Their solution? Set up a charity to feed the homeless. Wait, what? Well, good grades are an obvious must have, just as a filmmaker needs film, but it is how you go beyond that sets you apart. Similarly, to establish yourself in the top percentile in the US, you are expected to go further, to give back, and to elevate your work above just its standard application. Seek out those extracurricular activities that will shine a light on you within your art form; sit on a board, judge competitions, mentor young artists through the union - put yourself out there and get rewarded for it.

Useful Questions

Before we look at the individual qualifiers, ask yourself a few questions: Are you among that small percentage who have risen to the top of your field in Ireland or abroad, garnering individual praise for your work? Is your work extraordinary? Have you created new and advancing work that is beyond that of ordinary screen artists in Ireland? Do you have a specialist ability within film that makes you exceptional? Do you work in a niche area in which you are an expert? If these questions seem overwhelming, you may not be ready. The US government do not give out the green card as a gateway to opportunity, you must prove to them that you are already established and thriving. They want you to be an opportunity for the US. If you are not yet at this level, then proving your application will be difficult. Can it be done? Certainly. It has been done many times. The key is finding a way to present your work so as to tick the boxes on the examiner's form - again, the arts are subjective, and your application is a legal argument.

Let's look at how the USCIS examine an application. The process breaks down into two parts, the first is proving you are an eligible artist, the second is proving you are the kind of person they want in the US - this is the same for all visas and green cards and is based on financial, medical and criminal history. We'll not worry about that for now...

Proving your eligibility as an eligible artist is then further broken down into two parts, the first being satisfaction of the base criteria, and the second being a "final merits examination" wherein your career and art are looked at



from an overall perspective to see if you are the kind of person they want. This assessment is made by looking at your body of work as a whole, as well as the prospective work you will create in the United States. So what are the base criteria? For the purpose of this discussion we'll use the more comprehensive EB-1 green card requirements.

One-Time Award

Have you won a major internationally recognized award? The awards meant here are the top awards in each art form; an Oscar, Grammy, Tony, Pulitzer, Nobel Prize etc. If you have, then this accomplishment alone should be sufficient for you to qualify for the EB1 green card. If you haven't received an award such as this, the USCIS require you to satisfy at least 3 of the 10 criteria below. In all cases you must give evidence of the achievement itself and corroborate that evidence with supporting documentation from external sources.

Lesser Awards

Documentation of your receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. So you haven't won an Oscar but perhaps you won an IFTA, ZeBBie, Film Festival award etc. You may also submit arts/film grants as awards.

Memberships

Membership of SDGI will help here. Documentation of your membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. Membership of Aosdána will also help here.

Any other unions/guilds you may be a member of, as well as prestigious residencies and other arts organisations and academies.

Published Material About You

Published material about you in professional or major trade publications or other major media, relating to your work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.



Publicity throughout your career is used by the USCIS as a key barometer to measure extraordinary ability and sustained acclaim. Here you should also ensure to mention any radio/TV interviews you have given. If you don't have publicity we recommend you get it, as it has become something of an expectation for artists in entertainment.

Judge of Others

Evidence of your participation, either individually or on a panel, as a judge of work of others in the same or an allied field of specialization for which classification is sought. Maybe you sat on an IFTA jury or the SDGI committee, worked as a script reader or festival programmer. Whether paid or voluntary, competitive or for critical analysis, all may qualify here.

Significant Contribution/Innovation

Evidence of your original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The focus here is on significance. While all new art can be considered an original contribution, the USCIS seeks evidence of its impact on the field. Have you developed a new approach to your craft which others now follow, found a new application for your creations that has generated advancement for the field beyond your own career, pioneered a technique, had an influence on related fields?

Scholarly Articles

Evidence of your authorship of scholarly articles in the field, in professional or major trade publications or other major media.

Articles should be listed in online libraries or major trade publications, which may include Screen International, Variety etc. Being published in major media rarely qualifies here as scholarly articles are considered to be those written for an audience of educated peers.

Artistic Exhibitions or Showcases

Evidence of the display of your work in the field at artistic exhibitions or showcases. Has your film screened in prestigious artistic venues or showcases? This can include film festivals, famous theatres, etc. Cinema and television releases do not count here as they are considered to be commercial exhibitions.

Leading/Critical Role



Evidence that you have performed in a leading OR critical role for organizations or establishments that have a distinguished reputation. The equivalent criterion within the O-1B visa application calls for leading role within a production - your position as director etc is critical to a film - however, for the EB-1, the focus is on your role in an organisation. Have you sat the board of the SDGI, Screen Ireland, IFI etc? It is important to note the association's "distinguished reputation".

High Salary

Evidence that you have commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

This section requires you do some digging through the government salary statistics to compare your salary to others working in your field. Though not strictly specified, it is advised that you give evidence that you are earning in the top 10% of your profession.

Commercial Success

Evidence of commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

Box office and sales receipts establishing the commercial success of your work. Be careful that you do not submit data that contradicts your claim - if your film takes €1m in box office but your budget is reported elsewhere as €1.2m, then the USCIS will deem the production a failure, so you would need to ensure you have included home entertainment or other revenue streams to prove the overall success.

If you can fulfil three of these criteria, then you are in good shape and the wild west may be open to you. If you are not yet ready, think about how you could grow your career using the USCIS criteria to satisfy the requirements. And even if you don't want to sail away, there's no harm in being extraordinary.

Thanks to Rachel Rath and Kevin Marron for writing this for SDGI. Check out their story and find detailed and useful information on the visa application process at www.artistgreencard.com