

## STUDY PROGRESS MONITORING WITH REGARDS TO RESIDENCE PERMIT FOR STUDY (NON-EEA), IN THE CONTEXT OF THE MODERN MIGRATION POLICY (MOMD) IN RELATION TO THE CORONA CRISIS

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### ISSUE

Because of the Corona crisis, some students struggle with (upcoming) study delay. Not only as a result of parts of education that possibly could not be continued temporarily, but it can also occur for reasons on personal level and for reasons beyond their control. Questions have been raised, for example: can the Corona crisis be classified as a justifiable reason for study delay, with regards to the obligation of having sufficient study progress (50%) in academic year 2019-2020? Nationwide guidelines were necessary, before the universities could answer such questions.

### ADDITIONAL GUIDELINES

The National Commission that monitors compliance with the Code of Conduct International Student in Dutch Higher Education issued additional guidelines concerning Article 5.5 of the Code of Conduct because of the Corona Crisis. These additional guidelines were established on April 15, 2020 and are valid for the period during which the measures to combat the Corona virus are in force.

*(Dutch)*

*“De richtlijnen zijn vastgesteld op 15 april 2020 en geldig gedurende de periode waarin de maatregelen om het COVID-19 virus te bestrijden van kracht zijn. [...] De IND heeft aandacht gevraagd voor het feit dat er bij hen veel vragen binnenkomen van onderwijsinstellingen over de toepasbaarheid van verschoonbare redenen in het geval een student studievertraging oploopt doordat hij/zij geen onderwijs kan volgen door de getroffen maatregelen. De Landelijke Commissie verwacht met onderstaande richtlijnen uw vragen te kunnen beantwoorden. Om tot deze richtlijnen te kunnen komen heeft er veelvuldig afstemming plaatsgevonden tussen de Landelijke Commissie, de koepelorganisaties, de ministeries van OCW en J&V en de IND.*

*De huidige situatie waarin als gevolg van maatregelen om het corona virus te bestrijden ook het onderwijs zwaar wordt getroffen, vraagt van een ieder om daar waar mogelijk te zoeken naar manieren en oplossingen zodat internationale studenten zo goed mogelijk worden opgevangen en met hun studie kunnen worden geholpen. Studievertraging ligt op de loer of is inmiddels een feit. De coronacrisis kan een reden zijn tot verschoonbaarheid van de studievertraging zoals bedoeld in artikel 5.5 van de Gedragscode.*

*Nu deze verschoonbare reden voor grotere groepen studenten tegelijkertijd aan de orde kan zijn, kan een instelling dit ten aanzien van die groep studenten gelijktijdig constateren. Van belang daarbij is dat de onderwijsinstellingen, net als in de reguliere situatie, op individueel niveau in het dossier vastleggen dat er voor de student geen mogelijkheid was onderwijs te volgen. In die situatie is sprake van onstudeerbaarheid. Dat is niet het geval indien er aan de student alternatieven worden aangeboden om onderwijs te volgen en hij in staat wordt gesteld voldoende studiepunten te behalen.*

*De Landelijke Commissie wenst tot slot te benadrukken dat de bevoegdheid tot beoordeling of er in het individuele geval sprake is van een verschoonbare reden op basis van artikel 5.5 van de Gedragscode is belegd bij de onderwijsinstellingen.*

*De Landelijke Commissie verwacht met bovenstaande tekstblokken richtlijnen mee te kunnen geven en duidelijkheid te creëren voor (aankomende) internationale studenten en de onderwijsinstellingen.”*

## MEANING AND SCOPE

With these additional guidelines, universities have been given the possibility to classify the Corona crisis as a justifiable reason for study delay of non-EEA students with a residence permit for study. When it comes to specific groups of these students, universities can declare that the Corona crisis has led to the impossibility to make study progress and study delay is therefore justified.

The additional guidelines and the content of the Code of Conduct to which these guidelines relate are strict. The University of Twente has offered alternatives to students to continue their studies remotely, such as online education. However, it remains possible that study delay can occur due to the Corona crisis for reasons on a personal level and for reasons beyond the student's control. For those situations, the University of Twente aims to be flexible and accommodating to the aforementioned students wherever possible, acting in compliance with the letter and spirit of the Code of Conduct. Agreements on this are mentioned below.

## SUGGESTED AGREEMENTS

The University of Twente classifies the Corona crisis as a possible justifiable reason for study delay, in addition to the existing reasons for study delay that are determined by law. Article 2.1 of the Implementation decree of the Higher Education and Research Act ('*Uitvoeringsbesluit WHW*') offers this possibility. For students at the University of Twente, who incur or have incurred a study delay as a result of the Corona crisis and therefore could not comply with the obligation of having sufficient study progress (50%) in academic year 2019-2020, the University establishes the following<sup>1</sup>:

### **A. Students with study delay due to (personal) circumstances**

Students with a study delay due to (personal) circumstances as a result of the Corona crisis need to have their circumstances assessed by the Committee Personal Circumstances (CPO) if those circumstances have led to insufficient study progress (<50%)<sup>2</sup>. This procedure explicitly also applies to first-year Bachelor's students whose educational recommendation will be postponed.

### **B. Students who can't continue their education, graduation assignment or internship**

Cases, in which students have incurred a (provable) substantial study delay as a direct consequence of the fact that the Corona crisis required them to interrupt their education (such as working in labs), graduation assignments or internships, for which no alternative could be provided, and thus have insufficient study progress (<50%), are hereby classified as justified based on educational force majeure leading to insufficient educational feasibility<sup>3</sup>. This also applies to students who have incurred a study delay because they cannot continue their graduation assignment or internship at another university and/or abroad. As stated in the additional guidelines, insufficient educational feasibility due to educational force majeure is not the case if the student was offered sufficient alternatives to follow education and thereby was expected to obtain a sufficient amount of credits.

According to the Modern Migration policy, the University of Twente is obliged to report insufficient study progress of students to the IND, unless the lack of study progress is a result of personal circumstances<sup>4</sup>. With an acknowledgement in terms of A or B, lack of study progress in academic year 2019-2020 will **not** be reported to the IND.

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<sup>1</sup> Existing regulations and procedures remain applicable, unless stipulated in this document or decided otherwise.

<sup>2</sup> The categories of (personal) circumstances are laid down in Article 2.1 Implementation decree and 7.51 Higher Education and Research Act and mentioned on the MoMi website below. It will be taken into account that, in the light of the Corona crisis, the content of the circumstances can differ from regular circumstances. The CPO will assess on the grounds of reasonableness and fairness ("*redelijkheid en billijkheid*") and takes into account the student's own responsibility in choices made, knowingly and willingly ("*willens en wetens*").

<sup>3</sup> A Corona-related study interruption: This type of insufficient educational feasibility is a direct consequence of a force majeure situation that could not reasonably have been foreseen or anticipated by a study programme and therefore cannot be regarded as the circumstance as referred to in the context of the profiling fund that the study programme is insufficiently feasible ("*Service document OCW 24-4, 2.8.1 bullet 3*").

<sup>4</sup> Article 4.20 under 1.e "*Voorschrift Vreemdelingen*" and Article 5.5 Code of Conduct International Student Dutch Higher Education.

## PRACTICAL IMPLEMENTATION AND COMMUNICATION

Existing regulations and procedures involving the CPO and MoMi Committee remain applicable, so are the deadlines. Students will be informed about their study progress in accordance with the MoMi procedure within the University of Twente.

With regards to the CPO procedure for **group A**, students will have a (online) meeting with their study advisers and a student counsellor of SACC. The student submits an application (substantiated with evidence/supporting documents), after which the CPO assesses the circumstance and its causal link with the study delay. In this assessment, the CPO will consult the study adviser and student counsellor. At the end, the CPO gives an opinion, which the MoMi Committee usually follows. If the CPO acknowledges the delay as justifiable, the lack of study progress will not be reported to the IND.

The Corona crisis is classified as an additional justifiable reason for study delay. Because also regular personal circumstances can be assessed, the CPO and MoMi Committee will make a distinction in assessment between regular personal circumstances and circumstances associated with the Corona crisis<sup>5</sup>.

The steps to be taken in these procedures remain the same, but it is imaginable that *more* cooperation with colleagues of the programmes involved may be necessary. In most cases, the educational programmes (f.e. study adviser, Fainco, International Student Support Officer) have insight into the students to whom the above mentioned situations apply and, as usual, shall guide these students to relevant procedures.

The management of the programme can decide for which students within the programme **a justification in terms of B** is appropriate, within the requirements mentioned under B. To be able to guide students in further steps in the MoMi-procedure, it is advised that this decision is made before the end of July 2020. With this decision, these students initially don't have to follow the CPO route. But if desired by the programme management or student, an assessment by the CPO of individual cases is possible.

For both **groups A and B**, it is as usual and important that the MoMi Committee is timely informed about any justification of lack of study progress, to ensure the monitoring (not being reported to the IND) and the implementation of the process, but also to keep track of numbers and files. The MoMi Committee will stay in contact with its faculty contact persons regarding this MoMi procedure.

Information about MoMi regulations, MoMi guidelines within the UT<sup>6</sup> and CPO procedure can be found here: [www.utwente.nl/en/ces/sacc/regulations/momi/](http://www.utwente.nl/en/ces/sacc/regulations/momi/)<sup>7</sup>

### NB 1

*The possibility of having more individual assessments has to be taken into consideration. If the number of assessments is predicted to be too high, adjustments have to be made to the procedures regarding group A. (Provisional) numbers can be estimated in due time by the MoMi committee in cooperation with the faculty contact persons, after which it can be determined whether individual assessment is feasible or whether adjustments are necessary.*

### NB 2

*Agreements concerns insufficient study progress during academic year 2019-2020. Measures can be extended by the Executive Board if necessary.*

### NB 3

*Account is taken of the possibility of national announcements after adopting this document, that can lead to the adjustment of this document.*

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<sup>5</sup> Confidential annex.

<sup>6</sup> See [www.utwente.nl/en/ces/sacc/regulations/momi/guidelines-momi.pdf](http://www.utwente.nl/en/ces/sacc/regulations/momi/guidelines-momi.pdf).

<sup>7</sup> The website and application form will be adjusted after adopting this document.