

## Guidelines MoMi

Modern migration policy with regards to residence permit

### Article 1. Rights and obligations

1. The Modern Migration Policy Act (MoMi) is the Dutch immigration law. The rules of MoMi are laid down in this act and in the “Code of Conduct for international higher education students”. It complements the existing statutory frameworks of the following Dutch laws: WHW (the Law on higher education and scientific research), Vreemdelingenbesluit 2000 (the Aliens Decree 2000) and Vreemdelingencirculaire 2000 (the Aliens Circular 2000).
2. The UT (University of Twente) ensures that only study migrants are recruited who are admissible to the programme and that in this recruitment and selection the study migrants are informed about the relevant regulations ('Duty of Care', article 1.8 of the Aliens Regulations 2000).
3. The UT has the obligation to gather and save relevant information ('Administration and retention obligation', article 1.8 of the Aliens Regulations 2000).
4. The study migrant is responsible for the registrations and has the obligation to provide correct and complete information.
5. The UT assesses whether the application for a residence permit is complete and whether the study migrant can meet the conditions for admission, before the application is submitted to the IND (Immigration and Naturalization Service).
6. The UT submits the application for a residence permit to the IND through an accelerated procedure, on which the IND will make a decision.
7. The UT can submit the application for extension of the validity period to the IND, on which the IND will make a decision.
8. The study migrant has the obligation to provide correct and complete information to the IND and the UT about changes in personal data, the residence permit and his/her stay.
9. The UT has the duty to notify the IND if there is a change in data that may affect the right of residence of the study migrant ('Information duty', article 4.17, 4.18, 4.20 of the Aliens Regulations 2000 and article 4.44.a of the Aliens Decree 2000). The UT notifies the IND if:
  - a. the study migrant no longer studies full-time at the UT;
  - b. the study migrant has stopped or completed his study prematurely;
  - c. the study migrant already has a valid residence permit for study;
  - d. the accreditation of the programme has expired;
  - e. the study migrant has insufficient study progress as referred to in art. 5.5 Code of conduct;
  - f. the study migrant doesn't have sufficient means of subsistence at the start of a new academic year.

### Article 2. Monitoring



1. The MoMi Committee is responsible for the monitoring of study progress and file management.
2. The MoMi Committee determines which students are MoMi students and which standard applies to them and informs the study migrants and their programmes about this.
3. The MoMi Committee is responsible for (sending) a centralized information letter to the students.

### Artikel 3. Study guidance

1. The programme provides ongoing guidance to the study migrant during and concerning the study.
2. The programme is responsible for informing the study migrant about the study progress in the interim and in writing, for signing the form that explains sufficient study progress is made during internship/graduation, for providing information about possible follow-up procedures such as the route for a signed form concerning board functions (activism) or the route to the CPO in case of personal circumstances. The programme also advises the CPO when handling the application for assessment of personal circumstances.

### Article 4. Study progress (the MoMi standard and monitoring)

1. The study progress is calculated according to the MoMi standard. The law requires all non-EU/EEA students with a residence permit for study purposes at the UT to achieve sufficient study progress (MoMi standard). The MoMi standard therefore applies to all regular full-time Bachelor's, Pre-Master's and Master's students. The MoMi Act doesn't apply to migrants from EU/EEA countries, nor does it apply to migrants with a short stay visa and a visa for asylum.

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2. The MoMi standard means that the study migrant needs to achieve sufficient study progress. According to the Code of Conduct, sufficient study progress is considered to be 50% (or more) of the proportional nominal study load for the (part of the) academic year.
  3. The study migrant must have sufficient study progress each academic year. For the IND and the MoMi standard it's not relevant within which programme or from which academic year the EC's are obtained, as long as the study migrant obtains at least 50% of the EC each academic year.
  4. In the context of study progress monitoring, the MoMi Committee determines the annually study progress of the study migrant after each academic year on behalf of the UT. In case the study migrant has obtained less than 50% of the required EC without any justifiable reason, the UT is obliged to report this to the IND.
  5. The UT VISA department reports to the IND, for example about (possible) insufficient study progress, on which the IND will make a decision. The IND will confront the study migrant about deregistration.
  6. Sufficient study progress must also be achieved in case of for example internships. The study migrant who doesn't have to be deregistered for this reason, must let the study progress form signed by the programme, which establishes that comparable study progress has been made if EC's haven't been awarded yet. The form must be submitted to the MoMi committee before the end of the academic year, in order to omit the notification to the IND.
  7. The requirements of the Binding recommendation rule (BSA) are linked to the programme and have no direct effect on the residence permit (see 4.3). It does has consequences for the continuation of that programme.
  8. If a preparatory year / transition year is followed, the study migrant must complete it successfully, in order to be admitted to the programme. For the MoMi standard and the MoMi study progress monitoring it is not important which EC's are obtained (see 4.3).

#### Article 5. Insufficient student progress due to personal circumstances

1. A notification to the IND because of insufficient study progress can only be omitted if there are personal circumstances that affected the study progress and caused the delay. By law, only the following grounds for study delay can be recognized as justifiable by the CPO:
  - a. Illness or psychological problems
  - b. physical, sensory or other functional disorder
  - c. pregnancy and delivery
  - d. exceptional family circumstances
  - e. activism (membership of University Council, Faculty Council, Programme Committee or board of recognized associations listed in FOBOS, Appendix B, Basic list for allocation of activism grants)
  - f. insufficiently feasible study programme
  - g. other special circumstances determined by the board of the institution, for example Top-level Sports or Top-level Arts
  - h. circumstances other than the aforementioned which, if a request for support on the part of the institution's administration was not honored, would lead to an unfairness of a predominant nature.
2. In a period of sponsorship, a notification to the IND can only be omitted if the student has insufficient study progress due to a recognized personal circumstance as listed above, that hasn't been used previously to omit a notification.

#### Article 6. CPO – Personal circumstances

1. There is a uniform procedure regarding the determination of the justifiable personal circumstance, that is performed by the CPO and a centralized file management regarding this justification.
2. The study migrant who experiences circumstances that (can) impede the study progress should report this as soon as reasonably can be expected to the study programme (Fainco / Study advisor).
3. If there are personal circumstances as listed above which caused a study delay, binding agreements will be made in writing between the study migrant and the programme to ensure that timely graduation is not compromised.

4. If there are personal circumstances as listed above which caused a study delay, the study migrant can submit an application for assessment of these circumstances to the CPO. The application needs to be submitted before July 1<sup>st</sup>. For the CPO to assess the circumstances, the study migrant must provide supporting documents and must have had an appointment with the student counsellor of Student Affairs, Coaching and Counseling (SACC).

For more information about the procedure, the required documents and to submit the application, there is a website <https://www.utwente.nl/en/ces/sacc/regulations/momi/>.

Note: it is preferable to have a meeting with the student counselor before the application is submitted. The student counsellor can advise on rules that may apply and they can offer help in formulating the personal statement. Make sure the appointment is made timely (before July 1<sup>st</sup>).

5. The CPO assesses the personal circumstances of the submitted applications and will determine whether there is a justifiable ground. The CPO assesses whether insufficient study progress is caused by the stated personal circumstance. The CPO will be advised by the programme (study advisor / Fainco).
6. The CPO informs the study migrant and advises the MoMi Committee on the assessment of the excusable reason in relation to the study progress.

#### Article 7. Monitoring

1. The MoMi Committee registers the study migrants with insufficient study progress that are excusable due to a justifiable personal circumstance or internship / graduation.
2. After the end of the academic year, the MoMi Committee assesses the study progress monitoring of that academic year. The MoMi Committee informs the study migrant about the final study progress by means of a centralized final observation letter no later than October.
3. The MoMi Committee registers the notifications to the IND due to insufficient study progress, registers the notification that are being omitted because of a justifiable ground and registers the circumstances on the basis of which the notification was omitted.

#### Article 8. Other

1. On behalf of the study migrant, the UT can object to a negative decision by the IND, for example when rejecting the residence application or withdrawing a residence permit.
2. The IND has enforcement instruments (sanctions) and procedures to stand up against sponsors and (study) migrants who don't comply with their legal obligations, such as a warning, an administrative fine, the withdrawal of a residence permit, the suspension of sponsorship or withdrawal of the sponsorship.