

Annual report 2014

National Commission
Code of Conduct
Higher Education

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1 CODE OF CONDUCT AND NATIONAL COMMISSION

The Code of Conduct Higher Education came into force on 1 May 2006 and has the aim to improve and safeguard the quality and of Dutch higher education. The Code of Conduct is a joint initiative of the Dutch government and higher education institutes to regulate relations with international students. As a quality tool the Code of Conduct contributes to the appeal the Netherlands has as a destination for studies and improves the mobility of international students. In this Annual report the National Commission gives an account of its activities and work performed in 2014.

Article 7.4 Rules and Regulations of the Code of Conduct
The National Commission adopts the Annual report and arranges for its publication.

In chapter 2 the Commission first discusses the policy context in which it performed its activities. This chapter contains a description of both the internal and external circumstances that had an influence on the Code of Conduct Higher Education and the performance of the National Commission. In 2014 the National Commission underwent a number of - internal - changes, such as the retirement of its chairman on 1 December 2014. Another change was the entry into force of the revisions of the Code of Conduct on 1 August 2014.

The National Commission is an independent supervisory body that monitors compliance with the articles mentioned in the Code of Conduct. It does so by initiating inquiries and by handling complaints lodged by international students, institutes and the Dutch Immigration and Naturalisation Service (IND). In the past nine years the Commission completed ten inquiries which it initiated (to be consulted through <http://www.internationalstudy.nl/en>). In both its decisions on complaints and the results of inquiries, the Commission focuses on the improvement of the quality of education provided to international students. This is firstly obtained by making suitable recommendations and imposing measures.

Chapter 3 deals with the petitions and other leads the National Commission received in the past year. Chapter 4 discusses the activities of the Commission regarding inquiries. In this chapter, the Commission takes a detailed look at its investigation into the EuroPort Business School (hereafter EPBS) which consumed a large portion of its time and effort in 2014. To conclude the Commission reports in chapters 5 and 6 on the register administration by the Education Executive Agency (hereafter: DUO) and on financial matters.



2 CONTEXT AND ACTIVITIES

This chapter provides the context in which the activities of the National took place. This is followed by a description of the activities of the Commission.

Context and activities

The National Commission acts in a dynamic and topical environment in which the interests of international students, educational institutes and the Dutch government are being represented. The diversity of interests results in a lively policy context that affects the activities of the National Commission. The past year again provided proof, for instance by the internalisation memorandum written by minister Bussemaker, that the internationalisation of higher education is considered of great value to the Dutch knowledge economy and prosperity.¹ Furthermore, the number of international students in the Netherlands is still increasing.

As such, the Code of Conduct Higher Education has an important role as a quality tool. The Code of Conduct aims to contribute to the fulfilment of the internationalisation ambitions of the Dutch government and the educational institutes. This is done by promoting the attractiveness of the Netherlands as a destination for studies. In its capacity of independent supervisory body for the Code of Conduct, the National Commission initiates inquiries and handles petitions filed by international students, institutions and the IND. In both its decisions on complaints and the results of inquiries, the Commission focuses on the improvement of the quality of education provided to international students. By making recommendations and giving suggestions, the Commission contributes to the quality and the appeal higher education studies have to international students, which positively affects student mobility and finally the policy of the Dutch government in binding immigrants to the Netherlands.

Revised Code of Conduct

On 1 August 2014 the revised Code of Conduct came into force. One of the revisions introduces an additional option for educational institutes to exempt an international student from the obligation to take a language test, provided that this student possesses a certificate of secondary education included in the so-called list of certificates. This list has been drawn up on the instructions of the institutes of higher education and can be consulted - just as the current and previous text of the Code of Conduct and the Rules and Regulations - on the Code of Conduct's website: <http://www.internationalstudy.nl/en/page/code-of-conduct-and-regulations>.

Composition National Commission

After having been in office as a chairman for nearly nine years, professor R. Fernhout LL.M., former National Commission, retired from the National Commission on 1 December 2014. Mr Fernhout will continue his career as chairman of the Netherlands Board on Research Integrity (LOWI). It was agreed with the umbrella organisations, the Netherlands Council for Training and Education (hereafter NRTO), the Netherlands Association of Universities of Applied Sciences and the Association of universities in the Netherlands (hereafter VSNU) that Mr C. Boom LL.M. would be temporary chairman until a new chairperson for the National Commission will have been appointed.

¹ Ministry of Education, Culture and Science, *Policy memorandum on internationalisation in higher and vocational education*, (The Hague, 15 July 2014).

Composition National Commission)

FUNCTION	NAME	CAPACITY	UMBRELLA
chairman	R. Fernhout	Former National Ombudsman	- ²
member/substitute chairman/acting chairman	C. Boom	Former president Saxion	The Netherlands Association of Universities of Applied Sciences ³
member	F. Kuipers	Former president Noordelijke Hogeschool Leeuwarden	The Netherlands Association of Universities of Applied Sciences
member	K.S. Ali	Director Education and Student Service Centre/ International Relations TU Eindhoven	VSNU
member	P.M.M. Rullmann	Former Board member Delft University of Technology	VSNU
member	H.A.M.F. Keijzer-Lambooy	Former director ITV Hogeschool voor Tolken en Vertalen, former interim chairperson PAEPON (now NRTO)	NRTO
substitute member	H.M. de Jong	Rector University of Amsterdam and Board member of the University of Amsterdam and the Amsterdam University of Applied Sciences.	The Netherlands Association of Universities of Applied Sciences
substitute member	Vacant		The Netherlands Association of Universities of Applied Sciences
substitute member	M.C. Gardeur-Veltman	Advisor International affairs University of Groningen	VSNU
substitute member	J. Bonnink	Coordinator Corporate Affairs VU University Amsterdam	VSNU
substitute member	J.A. Dop	Former member of Executive Board of Webster University Leiden	NRTO

² Until 1 December 2014

³ Mr Boom has been appointed acting chairperson as from 1 December 2014.

Farewell prof. R. Fernhout LL.M. in the Museum Speelklok in Utrecht.



Good practices

The fact that the Code of Conduct gains relevance is for instance demonstrated by its reputation and appreciation on the European level. In a conclusion of an Advocate General at the European Court of Justice C-491/13 (Ben Alaya) the Code of Conduct was cited as an example of *good practices*. Briefly summarized a German court requested the European Court for a preliminary ruling on the application of the European Students Directive (2004/114/EC). This issue was if a permission to stay for study purposes may be refused if an international student meets the criteria of the directive, although doubt exists about his study motives. In other words: do national authorities have discretionary powers? The Advocate General considered that a member state is obliged to grant access to its territory to a third-country national who wishes to stay in that country for study purposes and who meets the exhaustive enumeration listed in the directive.

The Advocate General stated that member states are allowed to include in their national regulations provisions which educational institutes must use to check if third-country nationals meet certain minimum conditions prior to admittance. In a footnote (26) the Dutch situation is mentioned as *good practices*, referring to the Code of Conduct.⁴

In addition, the Dutch minister of Education, Culture and Science included the results of the inquiry by the National Commission *Information Websites 2013* in her previously mentioned internalisation memorandum. In context of the Modern Migration Policy Act, which entered into effect mid-2013, the minister asks for awareness of the rules concerning mandatory study progress. This standard has been described in article 5.5 of the Code of Conduct and was included in the inquiry *Information Websites* of the National Commission. The inquiry shows that the information given on the institutes' website about these rules has room for improvement.

EUPE

In 2010, the European University of Professional Education (hereafter EUPE) was struck from the register of the Code of Conduct. Soon after this, the minister withdrew its accreditation. Thereafter the educational institute had to close. In July 2014 the Dutch House of Representatives asked the minister a number of parliamentary questions. The questions regarded the government's duty of care towards - international - students who could not complete their studies because of the closure. The National Commission was one of the parties to be consulted for the answers to the questions. The minister applied for postponement of reply.

Inquiries such as EUPE in 2010 and EPBS in 2014 (see chapter 4) are good examples of the activities of the National Commission. Especially the educational sector praises these activities. The interministerial meeting on the Code of Conduct, which is attended by various educational parties, highly appreciates the course of action taken by the Commission. The admission of international students to Dutch higher education (see chapter 4 of the Code of Conduct) continues to have the full attention of the National Commission.

European Directive

Every year over 200,000 students and researchers from outside the European Union use the possibilities of a temporary stay in Europe. Legislation which enables these possibilities are laid down in two European directives; one directive provides for students and the other one for researchers. Legislation is complicated and has resulted in various national procedures in the Member States. The European Commission took the initiative to bundle and simplify these directives. At the time of writing, the proposal COM(2013)151 is waiting for a decision by the European Parliament. The new directive may affect the recognised sponsorship and the scope of the Code of Conduct. Joining these groups - students and researchers - brings up the question whether it would be desirable to have the Code of Conduct apply to researchers and PhD students as well. One of the facts demonstrating the desirability of having one single Code of Conduct Higher Education and Research is that PhD students also appeal to the National Commission (this is illustrated by petition II on the following page).

⁴In September 2014 the Court of Justice delivered judgement in the case Ben Alaya. In its decision the Court followed the argumentation of the Advocate General.

3 PETITIONS

Following articles 7.5 and 7.6 of the Code of Conduct everyone who has a direct interest may lodge a petition to the National Commission in writing.

Article 7.5 Code of Conduct

Any party concerned believing that a higher education institution has not acted in accordance with this Code of Conduct towards him or any one else can lodge a petition to the National Commission in writing.

Prior to lodging a petition with the Commission, the petitioner first submits the complaint to the competent authority of the higher education institution. The higher education institution ensures that existing or, if necessary, new internal complaint procedures are available for complaints under the Code of Conduct.

Article 7.6 Code of Conduct

If the petitioner is of the opinion that the higher education institution has not settled a complaint properly or is still of the opinion that the higher education institution does not comply with the Code of Conduct, he/she may submit the reason for the complaint, and the response thereof received from the higher education institution, to the National Commission.

In 2014 the National Commission received two petitions.

Petition I

At the end of March the National Commission received a petition from a group of Chinese students regarding actions of the EPBS. At that time the Commission already had taken the initiative to start an inquiry into this institute, as is further explained in chapter 4. In summary, the petition of the Chinese students focused on the study information and the study programme offer. Early April 2014 the National Commission organised a hearing for these students. Soon after that the students withdrew their petition for reasons unknown to the Commission. The Commission has continued its inquiry into this institute.

Petition II

At the beginning of June a former PhD student submitted a petition to the National Commission regarding acts of the Maastricht School of Management (hereafter MSM). In summary, the petition regards events related to a decision taken by MSM mid-April 2012 to deregister the applicant. The applicant stated that the reasons MSM put forward for the decision to deregister could not be attributed to him and he wished to continue his studies.

The decision to deregister would have been taken as a doctoral thesis supervisor did not expect the applicant to complete the PhD programme successfully within four years and that the applicant did not complete one of the mandatory modules of the programme within one year, as is required according to the educational institute's Rules and Regulations. The PhD student stated that he could not be blamed for insufficient study progress. He stated that the reasons for the delay included the unstable political situation in his homeland, problems with acquiring data and most of all the lack of support during the first 20 months of the programme.

The National Commission gave its decision on 17 September 2014. The Commission was of the opinion that the applicant had no case, since the Commission could not establish that the applicant in the period that the acts were performed could be defined as an international student. The applicant was a foreign PhD student who had been given a grant by Nuffic under the Netherlands Fellowship Programme. The Code of Conduct does not cover scientific researchers.

The Code of Conduct defines an international student as follows:

A student with a foreign nationality who, in case of a third-country national on the basis of a residence permit granted to this effect, desires to continue, continues or has continued his/her education at a higher education institution in the Netherlands.

The full decision can be consulted on:

<http://www.internationalstudy.nl/sites/default/files/Uitspraak%20klacht%20PhD-student-MSM%202014.pdf>

Leads

Besides these petitions, the National Commission received two leads by e-mail within one month from students studying at the International Business School of the Hanze Hogeschool. The students took an MBA programme International Business and Management. Both students complained about the supervision during their thesis phase.

The first student stated that he was appointed different thesis supervisors within a short period of time, who did not have time or had insufficient time for him, which twice resulted in a fail mark for his thesis. He requested the institute to review the last assessment so that he might be able to graduate. The second student complained about insufficient thesis supervision as well. He stated that the supervisor did not have the time to assess his thesis, which would be equally the case for other students. The National Commission encouraged him to file a complaint with the educational institute and stated that if the student and the institute cannot find a suitable solution, he may appeal again to the National Commission. At that time the National Commission will see what it can do for the student.

Further to a petition of 2013 regarding acts of the Hogeschool InHolland, the Commission received an e-mail in 2014 sent by the representative of the applicant stating that he requested renewed attention from the ministry of Education, Culture and Science (hereafter OCW). The Commission took note of this.

4 RESEARCH

Besides handling petitions submitted by international students, institutes or the IND, the National Commission monitors compliance with the articles of the Code of Conduct by initiating inquiries. With its enquiries the Commission promotes quality and subsequently the appeal of Dutch higher education to international students.

Article 7.3 Code of Conduct

The task of the National Commission is to monitor compliance with the Code of Conduct and to assess the actions of the higher education institutions in the light of the Code of Conduct. The commission does so by, among other things, dealing with petitions that may be submitted based on the Code of Conduct in accordance with the procedure as described in Section 4 of the Rules and Regulations.

Article 7.1b Rules and Regulations of the Code of Conduct

1. The task of the National Commission is to monitor compliance with the Code of Conduct and to assess the actions of the higher education institutions in the light of the Code of Conduct. The Commission does so by, for example:

b. conducting its investigation into the way a higher education institution has acted or is acting under the Code of Conduct.

With regard to its powers described above, the National Commission used its report 'Voorlichting Websites 2013' (Information Websites 2013) to publish a guide in 2014, completed its inquiry into the EuroPort Business School 2014 and set up an inquiry into the preparatory year.

Information websites 2013

In 2013 the Commission reviewed the information on the websites of the institutes of higher education. The National Commission composed five research questions based on section 2 of the Code of Conduct. Of course it is important that the information on the website presents a correct picture of the institute and the programmes it offers.

On 10 January 2014 the National Commission sent the review report to the chairpersons of the Boards of the 76 educational institutes recorded in the register of the Code of Conduct. Each institute received a confidential annex stating the findings regarding that educational institute. The Commission requested the institutes to indicate which measures for improvement it will take to optimise the study information. The responses the Commission received showed that for two specific review questions the question arose how to apply these standards.

In order to offer all institutes the tools to improve their information, the Commission thought it wise to publish a guide. The guide incorporates so called *good practices* resulting from the review mentioned before. The way these institutions present their study information may serve as an example for other institutes. The guide, which was sent by the Commission to the institutes on 13 June 2014, contains the items that the Commission thinks should be dealt with.

Inquiry EuroPort Business School 2014

In 2012 the National Commission made an inquiry into the Capstone programme of the EPBS. The inquiry concerned the admission of 41 Chinese students to a *fast track* version of the study programme International Business and Management Studies (hereafter IBMS). The presumption was that certain acts of the EPBS regarding information, advertising and admission would contravene the Code of Conduct. At that time the National Commission established the fact that it was not competent to decide on the validity of granting an exemption of 2.5 years of study based on an assessment. For the other items the Commission decided, based on information known at that time, that the EPBS had acted in accordance with the Code of Conduct, except for the occasional incorrect application of the English language requirement, article 4.2.

In March 2014 the National Commission, following new leads of possible irregularities with the EPBS among others arising from the report by the Dutch Inspectorate of Education of 2013, to reopen its

2012 inquiry into the EPBS.⁵ The new knowledge is directed at the alleged carelessness regarding study information provided to international students, the - provisional - default exemption of 132 ECs and the study programmes. Furthermore, the EPBS did not submit its 18 month programme to the NVAO for accreditation. The inquiry of 2014 focused - with regard to the leads - on how EPBS applied the articles 2.1 (information provision), 3.1 (agents), 4.1 (admission) and articles 5.2 and 5.5 (offers and assistance) of the Code of Conduct.

As said before, the National Commission received a petition from a group of international students regarding a number of acts by the EPBS in the same period. However, the petition was withdrawn a month afterwards.

In May 2014 the EPBS was given the opportunity to explain its views on the alleged acts in a hearing session. After that the National Commission requested the institute to provide additional information. A careful inquiry into the acts of the EPBS followed: several parties were consulted, and the website of the EPBS and the information provided by the institute were reviewed. In addition to this the National Commission requested the Inspectorate of Education publication of documents which prove that a number of Chinese students was registered for the fast track MBA in IBMS. Such publication can be enforced under the Government Information Public Access Act (hereafter Public Access Act). Most of the documents have been provided by the Inspectorate.

In short, its findings the National Commission established that in a number of cases the EPBS had acted contrary to the Code of Conduct. The EPBS provided international students incomplete and misleading information about the accreditation of the MBA programme it organised, see articles 2.1a and 5.2 Code of Conduct. Furthermore, the institute did not give full disclosure about the provisional status of the exemption of the 132 European Credits granted to students, see article 4.1 Code of Conduct. Following from the above the registration forms and the use of different terminology for the same short track gave rise to misunderstandings about the programme offered, see article 2.1c Code of Conduct. Such acts negatively affected at least a group of 37 students.

Considering the gravity of the violations established by the National Commission, the consequences for the 37 students and more in general the damage to the reputation of Dutch higher education, the National Commission decided to conditionally strike the EPBS from the register of the Code of Conduct for the period 1 November 2014 until 31 October 2015. In the year of suspension, the institute will be given the opportunity to comply with the provisions of the Code of Conduct and to demonstrate - by means of an independent review - that it has remedied the shortcomings. Of course this means that the National Commission will watch the actions of this institute closely in 2015.

The report was published in October 2014 and can be consulted on the website of the Code of Conduct Higher Education:

http://www.internationalstudy.nl/sites/default/files/Rapport%20onderzoek%20EPBS%202014_0.pdf

Study design dropout rate preparatory period

At the end of 2012 the National Commission published its report Survey Preparatory Period and Dutch Language Proficiency. This survey showed that in a relatively large number of educational institutes (14 out of 31 offering a preparatory period) not all students who take the preparatory programme, actually start the study for which they have come to the Netherlands. The National Commission considers it advisable to gain knowledge about the underlying reasons. Of course the risk exists - especially in the first and supplementary study year - of student dropout. However, it is in the interests of higher education and the students to minimise this risk by providing adequate information (article 2.1 Code of Conduct), assessment of admissibility of the student (article 4.1 and 4.2) and careful supervision of the student (article 5.5 Code of Conduct).

With this survey, the National Commission intends to improve the international reputation of Dutch higher education. The perception of the quality of preparatory programmes is a relevant factor in canvassing for international students and binding them to the studies. Even the 'best' students

⁵Dutch Inspectorate of Education *Admission of students to the Capstone programme of the bachelor International Business Management Studies (IBMS) of the Europort Business School (EPBS)*, (Utrecht, 11 November 2013) to be consulted on: <http://tkrtp.owinsp.nl/schoolwijzer/zoekresultaat#5>

sometimes need a preparatory year, for instance in order to bring their level of language proficiency or specialist knowledge up to the desired level.

5 REGISTER ADMINISTRATION

In order to know which institutes have signed the Code of Conduct and meet the provisions of that code, a register is kept. DUO manages the register. The register is publicly available at the website of the Code of Conduct: <http://www.internationalstudy.nl/en>. This website also contains a list of educational institutions with courses in culture policy and a list of institutes with study programmes in the field of international development cooperation.

Article 6.1 Code of Conduct

The higher education institution requests the Register Administrator for inclusion in the Register, and provides the signed Code of Conduct.

Article 6.2 Code of Conduct

The Register Administrator publishes the Register on its website in Dutch and in English. The Rules and Regulations forming part of this Code of Conduct contain further provisions pertaining to the register.

Article 6.3 Code of Conduct

Based on the information provided by the applicant, the Register Administrator decides within a month and informs the applicant in writing of the decision. The application is rejected, if the applicant does not meet the conditions and obligations as referred to in the Code of Conduct, including the accreditation of study programmes by accreditation organisations as referred to in Article 5.2. The application is also rejected if it is submitted before the period as referred to in Article 7.8 has passed.

In 2014, no new institutes were included in the register or struck from the register of the Code of Conduct. DUO, the Register Administrator received three requests for inclusion from the same educational institute, The Hague School of Business and Management (hereafter HSBM). In each of the three cases the institute withdrew its application as it could not meet the accreditation requirement. Furthermore, as explained in chapter 4, the EPBS has been conditionally struck from the register of the Code of Conduct for a period of one year.

6 FINANCIAL PARAGRAPH

The Commission met eight times in 2014. In addition two periodic meetings were held. The first meeting was held in May with the umbrella organizations NRTO, the Netherlands Association of Universities of Applied Sciences and VSNU. The second meeting took place in October with DUO. In 2014 payments for the attendance fees of the chairperson, members and substitute members of the Commission amounted to € 22,116.66.

Attendance fees, including travel costs (2014 and 2013)

Quarter	2014	2013
Q1	€ 2,851.60	€ 2,419.03
Q2	€ 10,035.04	€ 5,658.40
Q3	€ 3,864.43	€ 1,749.41
Q4	€ 5,365.59	€ 2,084.22
Total	€ 22,116.66	€ 11,911.06

The increase in expenses in 2014 compared with those of the previous year is caused by the number of hearing sessions that were held in that year, and by a number of periodic meetings with the boards of the umbrella organisations and DUO. This has led to an increase of the costs. Assignment and payment of attendance fees is done in keeping with the Attendance Fees Regulation, published on the Code of Conduct's website.

In 2014, tangible costs amounted to a little more than € 9,238 (2013: € 7,500); spent on travel costs, meetings, printing, translations and insurances.

The financial reserve 'additional research funding' of € 50,000, with which the ministry gave the Commission the opportunity to hire external research capacity in addition to DUO's structural research capacity when needed, was not called on in 2014.

Credits

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