

DECISION

on the application of 18 February 2016
of Saxion University of Applied Sciences, hereinafter applicant,
regarding alleged actions of the Immigration and Naturalisation Service (hereinafter IND).

1. COURSE OF THE PROCEEDINGS

On 18 February 2016 the National Commission received an application by e-mail, pertaining the policy of the IND.

The National Commission asked the applicant by e-mail on 19 February 2016 whether or not the applicant lodged a complaint with the IND. In reaction to this, the applicant informed the National Commission that the applicant did not formally do so. However the applicant presented the matter to the IND by e-mail.

On 16 March 2016 the National Commission discussed the application, whereupon a decision was taken and the file was closed.

2. CONTENT OF THE APPLICATION

The application concerns the - in the opinion of the applicant - changes in policy of the IND regarding the conditions imposed on the provision of a residence permit for study purposes. The applicant states that the IND has changed the condition of the amount of income requirements during the academic year.

The applicant maintains that it can not meet the provisions of the Code of Conduct, because of changing policy of the IND. The applicant refers in this regard specifically to the condition of an unambiguous information provision about the study programmes offered to international students, Article 2.1 of the Code of Conduct. Also raised by the applicant is that the IND is communicating insufficiently about its changes in policy.

3. ADMISSIBILITY

In Article 7.5 of the Code of Conduct is stated that any party concerned may submit a written petition to the National Commission on the manner in which a higher education institution has acted against that party or another, within the framework of the Code of Conduct.

The Code of Conduct defines a higher education institution as follows:

An institution:

- *subsidised, recognised or a corporation in accordance with the Higher Education and Research Act (WHW);*
- *subsidised within the framework of Article 2 of the Ministry of Foreign Affairs (Grant) Framework Act (Kaderwet subsidies Ministerie van Buitenlandse Zaken) and the Ministry of Foreign Affairs Grant Regulations 2006 (Subsidieregeling Ministerie van Buitenlandse Zaken 2006), or*
- *that provides higher education, accredited as referred to in Article 5.2 and that has signed this Code of Conduct and has been registered as a participating institution by the Register Administrator.*

The IND is not a higher education institution as defined above, but a governmental organization. Based upon Article 7.5 of the Code of Conduct, the National Commission is not competent to have jurisdiction in disputed conduct of the IND.

In view of the above, the National Commission considers that the application is inadmissible.

4. ADDITIONALLY

Furthermore, the National Commission notes that the Code of Conduct does not contain conditions which concern adequate information provision by the higher education institutions regarding provisions of immigration law, as in this case the amount of income requirements. That also means that the position taken by the applicant that the policy of the IND hinders higher education institutions to comply with the provisions of the Code of Conduct, can not be a topic to be researched and judged by the National Commission.

Finally the National Commission points out to the applicant that there is a complaint procedure against decisions of the IND.

5. DECISION

The National Commission declares the application inadmissible.

Done in Utrecht on 16 March 2016,

ir. J.E.J. van Bergen, chairman, Mrs dr. K.S. Ali, ir. F. Kuipers, drs. P.M.M. Rullmann and dr. J.A. Dop, members, in the presence of Mrs J.G. van den Bosch MA, official secretary and mr. dr. A.G.D. Overmars, acting examiner.

ir. J.E.J. van Bergen
chairman

Mrs J.G. van den Bosch MA
secretary

Sent on 21 March 2016.