



An administrative fine from the IND

Why does the IND impose administrative fines? How does the IND determine the level of the fine? What can you do if you do not agree with this? You can find the answers to these questions in this publication.

When and why is an administrative fine imposed?

All sponsors have obligations according to law. These include an information and an administration obligation and, in many cases, a duty of care. Foreign nationals also have an information obligation. This means that a foreign national is obliged to provide information about his stay in the Netherlands to the IND. The foreign national must, for example, notify the IND if his sponsor is no longer abiding by the rules. If a foreign national has no sponsor, he must pass on information about his own residence. If the sponsor or foreign national fails to abide by one or more obligations, the IND can impose an administrative fine.

The level of the administrative fine

The IND can impose an administrative fine for each misdemeanour of up to € 3,000 for businesses, legal persons and other organisations and € 1,500 for natural persons.

Warning instead of an administrative fine

If you breach a legal obligation for the first time, the IND usually issues a warning. This will not be the case if the breach is serious; the IND may then decide to impose an administrative fine immediately. A warning is valid for 24 months. If, within this period, the same legal obligation is breached, the IND can impose an administrative fine.

Higher or lower administrative fine

When setting the level of the administrative fine, the IND takes the severity of the breach and the extent to which it can be specifically attributed to a person/organisation into account. The IND does not impose administrative fines if the breach cannot be clearly attributed. For example, if a sponsor is not capable of maintaining his legal obligations as a result of very exceptional circumstances.

Higher administrative fine

If the IND discovers that a sponsor or foreign national has repeated the misdemeanour within 24 months of having received an administrative fine, the IND can increase the administrative fine by 50%.

Lower administrative fine

If the IND discovers that the breach is less serious or that there is evidence of a situation within which the misdemeanour cannot be attributed to the sponsor or foreign national, the IND can impose a lower fine. If the misdemeanour is less serious, the IND will reduce the fine to 50% of the maximum administrative fine. If the misdemeanour cannot be entirely attributed, the IND can reduce the level of the fine which remains once the severity of the misdemeanour has been considered, by 50%.

Example

If a natural person has committed a misdemeanour that the IND considers to be less serious and it is clear that it cannot be fully attributed, the IND can impose a fine of € 375. This amount is calculated as follows. The maximum administrative fine of € 1,500 is first reduced by 50% because it concerns a less serious offence. The fine amount that then remains, i.e. € 750, is then reduced by 50% because the offence cannot be fully attributed.

First notification (intention), then a decision

Before the IND takes a definitive decision about imposing an administrative fine, the IND will issue a letter of intent. This details the fact that the IND intends to impose an administrative fine, for which reason and how high this administrative fine will be. If you disagree with the administrative fine, you can provide your written response within the time limit set out in the letter.

The decision

After the intention has been issued and any response has been received, the IND will issue its definitive decision. This will contain the level of the administrative fine, the reasons for this being imposed and the time limit for payment to be made. If you responded to the intention letter, the letter of decision will detail why the level of the fine has or has not been amended. You can appeal against the decision. The decision will set out how you can appeal and the time limit for doing so. If the IND, after receiving your response, realises that the misdemeanour cannot be attributed to you, the IND will not impose an administrative fine. In this instance, the IND will send a letter setting out this information.

Processing of personal data

The Immigration and Naturalisation Service (IND) processes personal data when it processes your application, notification, or request. This means that if needed the IND will request data from you yourself and other organisations or persons. The IND also uses and stores data and shares them with other organisations. When doing so, the IND strictly adheres to the stipulations of privacy legislation. For instance, the IND must treat data safely and with due care. The law also gives rights. At your request, you are allowed to see which data on you the IND processes. You can also get information on why the IND does so and to whom your data have been passed on. On www.ind.nl you can read how the IND processes your data and which rights you have. You can also read how to use your rights.

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