

DECISION 24 - 477

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Of the Examination Appeals Board of Leiden University
in the administrative appeal by
[REDACTED], appellant
against
the Board of the Faculty of Humanities, respondent.

Course of the proceedings

The appellant lodged an administrative appeal against the decision by which she was issued with a negative advice regarding the continuation of the Bachelor's Programme in International Studies (hereafter: the Bachelor's Programme) and to which a rejection was attached (article 7.8b, paragraph 3, of the Higher Education and Scientific Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*; hereafter: the WHW).

The respondent submitted a letter of defence on 19 August 2024.

The appeal was dealt with on 22 August during a public hearing of a chamber of the Board. The appellant was present at the hearing. The following persons attended on behalf of the respondent: [REDACTED] of the Board of Examiners for *International Studies* and [REDACTED] of the Board of Examiners for *International Studies*.

Considerations

In line with article 7.61, paragraph two, of the WHW, the Board must assess whether the disputed decision conflicts with the law.

The appellant has been following the Bachelor's Programme since the 2023-2024 academic year. In that year, she obtained 50 ECTS. This means she meets the BSA

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norm of 45 ECTS, but she did not comply with the additional requirement applicable to the Bachelor's Programme that she passes the Academic Reading and Writing course.

The appellant does not have any personal circumstances that could justify not meeting the additional requirement. She pointed out that she has achieved a grade of 5.9 – 5.1 for the mid-term examination and 5.9 for the final examination. The appellant also remarked that the Academic Reading and Writing course will change in the coming academic year. Finally, the appellant stated that this course has a high percentage of students who fail. This is one of the reasons for changing how the course is assessed.

The respondent stated that there is little confidence that the appellant will be able to complete the Bachelor's Programme in a reasonable space of time. In the rest of the Bachelor's Programme there is more emphasis on writing academic papers, and it is for this reason that the Academic Reading and Writing course is an additional criteria for receiving a positive advice. The appellant had two opportunities to pass this course; the respondent therefore believes that she has had sufficient opportunity to learn from her mistakes. As she has not succeeded in this, the respondent has too little confidence that the appellant will be able to complete the programme within a reasonable period. The respondent also commented that the appellant cannot derive any rights from the fact that the course will change during the coming year.

Furthermore, the respondent warned the appellant – with a conditional negative BSA in January and an additional warning on 21 May 2024 – about the possible consequences of not passing the course.

Finally, the respondent remarked that of the 439 students, 55 failed the course. After reviewing the course, once the Board of Examiners had been informed of the relatively high percentage of students who failed the mid-term examinations, it became apparent that these students had often not completed the preparatory assignments. This was also the case for the appellant.

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First and foremost, meeting the additional requirement is an independent condition that the Bachelor's programme can attach to issuing a positive recommendation. Having said this, issuing a negative Binding Study Advice is not an obligatory consequence but is rather a decision where the respondent can exercise some discretion. This means that when taking the decision the respondent must also bear in mind the proportionality of the consequences of the decision in relation to the objective to be achieved by the decision (compare the decision of the Department of Administrative Law, 2 February 2022, ECLI:NL:RVS:2022:285). In this specific case, in the opinion of the Board, the respondent did bear this sufficiently in mind.

At the hearing, the respondent explained that the Academic Reading and Writing course is an important building block for the continuation of the Bachelor's Programme where great emphasis is placed on writing academic papers. The Board recognises the argument of the respondent that the course is an important building block for continuing the Bachelor's Programme.

Finally, the Board remarked that the appellant cannot derive any rights from the fact that there will be changes to how the course is assessed during the coming academic year.

The Board finds that the appellant has not met the BSA norm and that the circumstances put forward by her do not excuse this. The respondent has rightly and on good grounds concluded that there is insufficient confidence that she will be able to complete the Bachelor's Programme within a reasonable period.

The Board has not been made aware of any facts or circumstances that could lead to an alternative decision. This means that the disputed decision still holds and the appellant may not continue with the Bachelor's Programme.

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The decision

The Examination Appeals Board of Leiden University,

in view of article 7.61 of the Higher Education and Academic Research Act,

declares the administrative appeal unfounded.

Established by a chamber of the Examination Appeals Board, comprising:
O. van Loon, LL.M. (Chair); Dr A.M. Rademaker; P.C. Kemeling LL.B.;
J.J. Christiaans B.A.; and J.J. But LL.M. (members), in the presence of the
secretary of the Board R.R. van der Vegt, LL.M.

O. van Loon, LL.M.
Chair

R.R. van der Vegt, LL.M.
Secretary

Sent on:

Certified true copy,

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