

DECISION 18 - 065

Rapenburg 70
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of the Examination Appeals Board of Leiden University

in the matter of

the appeal by [name] from Moscow, Russia, appellant

against

the Board of Examiners for Literature and Media Studies, respondent

1. Origin and course of the proceedings

In its decision of 29 March 2018, the respondent declared that the appellant's thesis for the master's programme Media Studies, specialisation Book and Digital Media Studies, was invalid by reason of plagiarism and also stipulated that she must produce a new thesis, with a new topic and a new supervisor. The decision also stated that she is permitted to start work on the new thesis in September 2018.

In her letter of 25 April 2018, received on 8 May 2018, the appellant lodged an administrative appeal against this decision. The appellant argues – in short – that she did not commit plagiarism and that the sanctions are disproportionate to the observed offence. Her standpoint is that her thesis contains technical errors with regard to giving references, but this should not be regarded as plagiarism. She also takes the view that the respondent, in imposing sanctions, has wrongly failed to take account of the context. Thus, her first supervisor, [name], discontinued his supervision because of a breach of trust arising from a suspicion of plagiarism, which meant that she was compelled to transfer to another supervisor, [name]. In addition, she started a full-time job in Moscow from 5 September 2017, which meant that she had no access to the University Library in Leiden for the purpose of checking her sources/references.

On 18 June 2018 the respondent investigated whether an amicable settlement could be reached. An amicable settlement was not reached.

On 21 June 2018 the respondent submitted a letter of defence.

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The appeal was considered on 25 July 2018 during a public hearing of a chamber of the Examination Appeals Board. The appellant appeared at the hearing, accompanied by [names], respectively a member and the official secretary of the Board of Examiners for Literature and Media Studies, appeared on behalf of the respondent.

The appellant submitted a written pleading at the hearing.

2. Considerations with regard to admissibility

The appellant lodged a timely appeal against the decision of 29 March 2018 by means of the letter received by the Examinations Appeal Board on 8 May 2018. The letter of appeal also meets the requirements for appeal as stipulated in the General Administrative Law Act (*Algemene wet bestuursrecht*, “Awb”) and the Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, “WHW”). Consequently the administrative appeal is admissible.

3. Relevant regulations

The Rules and Regulations of the Board of Examiners of the master’s programme Media Studies (“R&R”), insofar as relevant, state the following:

Article 6.5 Measures to be taken in the case of plagiarism

6.5.1 The examiner checks all written assignments that serve as a constituent examination or examination and the thesis for plagiarism. For this purpose, he/she can use a detection programme that has been made available for the University, which is available via Blackboard. Students are obliged to submit their written work digitally for the purpose of checking for plagiarism, and to submit it via this programme if so requested.

6.5.2 If demonstrable plagiarism is detected, the examiner can declare any form of written work (whose purpose is to assess knowledge and skills) invalid. If the examiner deals with plagiarism in this way, he/she must inform the Board of Examiners about this as soon as possible.

6.5.3 If the examiner takes the view that a disciplinary measure other than being declared invalid should be imposed on a student in consequence of the detected plagiarism, he/she must contact the Board of Examiners.

6.5.4 If the examiner asks the Board of Examiners to impose a disciplinary measure in consequence of plagiarism, the examiner will submit the essay, paper, thesis or research assignment to the Board of Examiners.

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6.5.5 In the event of suspected plagiarism, the Board of Examiners can interview the examiner, student and others.

6.5.6 The disciplinary measures that the Board of Examiners can impose are:

- a. declaring the essay, paper, thesis or research assignment invalid;
- b. excluding the student from participation in writing an essay, paper, thesis or research assignment with respect to which the plagiarism was detected for a maximum period of one year; in addition, any essay, paper, thesis or research assignment of the kind for which plagiarism was detected, which has been successfully completed by the student in another faculty or higher education institution during this period of exclusion, cannot be included in the curriculum in any way;
- c. and/or excluding the student from participation in one or more examinations for a maximum period of one year, and/or excluding the student from participation in the teaching, examinations and final examination of one or more programmes offered by the Faculty for a maximum period of one year. Courses that have been successfully completed by the student in another faculty or higher education institution during the period of exclusion cannot be included in the curriculum in any way.
- d. In the case of serious fraud, the Executive Board can, at the proposal of the Board of Examiners, definitively terminate the student's enrolment in the programme.

4. Considerations with regard to the dispute

In accordance with Article 7.61, paragraph two, of the WHW (Higher Education and Research Act), the Examination Appeals Board must consider whether the contested decision contravenes the law.

The basic principle of the Examination Appeals Board, and also of Leiden University, is that 'fraud' (cheating) of any kind or extent whatsoever, will not be tolerated within an academic environment. Plagiarism is a form of fraud. A student is personally responsible for his/her own work and in that connection it may be expected that the student will also always check that he/she has not committed plagiarism and has cited all sources in the customary way.

In its letter of defence, the respondent indicated what was regarded as plagiarism in the appellant's master's thesis. Thus on page 14 of her thesis, the appellant failed to include a reference to the source in the sentence: "*The earliest catalogue dated from the 1660s and served as a working list for the first curator of Thysiana library, Baron Marcus du Tour (1623-1672). It has survived in only one copy without a title page. The second catalogue was made by Arnoldus Doude in 1677 and listed new acquisitions for the Library: famous eleven-volume Atlas Maior,*

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which was published in Amsterdam by Joan Blaeu from 1662 to 1665, together with the accompanying cabinet for them on the ground floor.” Here the appellant should have referred to pages 264-265 of the book *A Princely Acquisition for the Bibliotheca Thysiana in Leiden: The Books of Juliana Catharina, Princess of Portugal (1607-80), Quaerendo 41* (2011) by Prof. P.G. Hoftijzer, which reads: “The earliest one can be dated to the late 1660s and has survived in only one copy, which served as a working list of the first curator, Baron Marcus du Tour (1623-1672). (...) Copies in the library of the second catalogue, which is dated 1677, also list new acquisitions in this manner, among them the eleven-volume *Atlas Maior*, published in Amsterdam by Joan Blaeu between 1662 and 1665 and bought in the 1680s together with the accompanying cabinet.” Also on page 65 of her thesis, she gave no reference to the source after her sentence: “The heading of the two-page column in the cashbook is *Register en prijs van tulpaes en bijblommen* which clearly shows that Thysius’ interest was primarily in tulips.” In this case, the appellant translated and adopted the source text. The source text reads: “*Het opschrift van de twee bladzijden tellende rubriek in het kasboek luidt ‘Register en prijs van tulpaes en bijblommen’, waaruit duidelijk blijkt dat Thysius’ belangstelling in de eerste plaats uitging naar tulpen*” and is part of the chapter “Wie was Johannes Thysius? Vondsten uit het archief”, which was written by Esther Mourits and is included in the book compiled by Wim van Anrooij and Paul Hoftijzer (eds.): *Vijftien strekkende meter: Nieuwe onderzoeksmogelijkheden in het archief van Bibliotheca Thysiana* (Hilversum: Verloren, 2017), on page 82. The respondent pointed out yet more passages in the appellant’s thesis where she cited the incorrect page number and/or failed to place quotation marks around individual quotations. In several places in the thesis it is not clear where a quotation begins and where the appellant formulated her own text.

Examiners are authorised to assess whether a specific case does indeed involve plagiarism, or rather involves carelessness, which can be taken into account in the grade, in the context of the normal learning process. The examiners deemed that this specific case involves plagiarism, and they informed the respondent accordingly. The respondent then took the disputed decision.

Imposing a measure within the meaning of Article 7.12b, paragraph 2, of the WHW must be regarded as a disciplinary measure, which must be subjected to a test of proportionality. A measure of this kind must be founded upon explicit facts, circumstances and explanations that can support the measure.

The Examination Appeals Board shares the respondent’s standpoint that this case involves plagiarism, and why this is so. The appellant not only failed to place quotation marks around text that she has taken from other authors, and thus created the impression that it was her own text, but also copied passages from

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other authors in her thesis without any citation of the source, while this was 'unique text'.

Insofar as the appellant asserts in her letter of appeal that if plagiarism has been committed, she is not to blame for it because it was not committed deliberately, the Examination Appeals Board points out that, according to established case law of the Higher Education Appeals Tribunal (CBHO), the intentions of the student concerned are not relevant to the assessment of whether plagiarism has been committed (CBHO of 7 January 2015, case number 2014/217), and proof of intent is also not required for this (CBHO of 14 September 2016, case number 2016/099/CBE).

It is consequently necessary to assess whether the imposed sanctions are proportionate to the observed fraud.

The Examination Appeals Board observes that the respondent, in weighing the severity of the sanctions, correctly took into account that the appellant, at the time when [name] was her supervisor, was also confronted with her supervisor's opinion that plagiarism was committed in her draft version. The respondent did not impose a sanction at that time, because the appellant had not yet submitted her thesis for assessment. This occurrence should have conveyed a certain warning effect, such that the appellant might have been expected to exercise more caution in order to avoid any subsequent detection of plagiarism. The circumstance that the appellant was residing abroad for part of the thesis process, and was therefore unable to thoroughly check her sources, does not make her behaviour any less culpable. After all, it remains her own responsibility to indeed check her sources. In addition, the appellant is a master's student, who is therefore already advanced in her academic development and consequently should be even more aware of the serious nature of plagiarism.

The Examination Appeals Board takes the view that the respondent was correct to refuse the appellant's request to change her submitted thesis. If the respondent had permitted this, one could hardly say that a sanction had been imposed, in comparison with other students who did not commit plagiarism.

With regard to the proportionality of the sanction, the Examination Appeals Board further observes that the period between 29 March 2018, when the disputed decision was issued, and September 2018, when the appellant is permitted to start on a new thesis, with a new topic and a new supervisor, is just over five months. The respondent therefore chose to exclude the appellant from producing a new thesis, with a new topic and a new supervisor, for less than half

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of the maximum period stipulated in Article 6.5.6 of the R&R. The Examination Appeals Board considers that this period is not unreasonable.

In view of the above, the Examination Appeals Board concludes that the imposed measures are not disproportionate to the plagiarism committed by the appellant. The respondent therefore did not act in contravention of the law. The fact that the appellant will incur a delay in her studies in consequence of the sanctions is inherent to the imposed sanctions. Since the Examination Appeals Board has also not been made aware of any other facts or circumstances that should lead to an alternative decision, the appeal must be held unfounded.

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5. The decision

The Examination Appeals Board of Leiden University,

pursuant to Article 7.61 of the Higher Education and Research Act (WHW),

holds the appeal **UNFOUNDED**.

Established by a chamber of the Examination Appeals Board, comprised of H.M. Braam, LL.M., M.A. (Chair), J. Nijland, LL.M., Dr W.M. Lijfering, Y.D.R. Mandel and M. Heezen (members), in the presence of the Secretary of the Examination Appeals Board, M.S.C.M. Stoop-van de Loo, LL.M.

H.M. Braam, LL.M., M.A.
M.S.C.M. Stoop-van de Loo, LL.M.
Chair

Secretary

Certified true copy,

Sent on: