

**DECISION**            **20 - 286**  
                                 **20 - 287**

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of the Examination Appeals Board of Leiden University

in the matter of the appeal of

[name] from [place], [country], appellant,

against

The Board of the Faculty [X], respondent.

**The course of the proceedings**

The appellant requested the respondent to be admitted to the Master's Programme in [X], with the specialisations in [X] (hereinafter to be referred to as "the Programme").

The respondent rejected the petition by the appellant in the decisions of 30 July 2020.

On 31 July 2020, the appellant lodged an administrative appeal against these decisions.

The respondent provided an explanation regarding the decisions on 11 August 2020.

The appellant responded to this on 22 August 2020.

The respondent informed the Examination Appeals Board that it investigated whether an amicable settlement could be reached between the parties. No amicable settlement was reached.

The respondent submitted a letter of defence on 18 August 2020.

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**20-286/ 287** The respondent provided a further explanation on 26 August 2020.

Page 2/7 The appeal was considered on 27 August 2020. The appellant attended the hearing. Nobody was available to attend the hearing on behalf of the respondent on that day. This is why the Examination Appeals Board postponed the consideration of the letter of appeal.

On 27 August 2020, the appellant submitted additional information.

The respondent submitted a further letter of defence on 5 October 2020.

The appeal was considered further on 24 November 2020 during an online hearing of a chamber of the Examination Appeals Board. The appellant attended the hearing. [name], Study Adviser, appeared on behalf of the respondent.

**Considerations**

1 – The position of the respondent

The appellant completed a bachelor's programme at [X] University in [X], (majors in [X], minor in [X]). According to the respondent, the appellant does not meet the admission requirements. Her prior education is not equivalent to the bachelor's programme at Leiden University. The requirement is at least 150 ECTs of course units in the fields of [X], [X], and [X]. Work experience is not an admission criterion as such. More particularly, the prior education of the appellant lacks sufficient course units in the fields of [X], [X], and [X].

According to the respondent, the website does not state explicitly that a candidate must at least have passed 150 ECTs of course units related to [X] in order to be admitted. However, the requirement is demonstrated by the various components listed on the website. The admission criteria for this programme are different from other universities in the Netherlands. At the hearing, it was argued on behalf of the respondent that the admission criteria will be specified better on the website.

The respondent indicated that the appellant passed about 96 ECTs of course units in the field of [X] (150 ECTs are required), 6 ECTs in [X] course units (20 ECTs are required), 12 ECTs of [X] course units (at least 30 ECTs are required for the specialisation in [X], 24 ECTS in [X] course units (at least 30 ECTs are required for the specialisation in [X]).

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The respondent reviewed the information submitted by the appellant once again and reached the conclusion that the appellant only passed 102 ECTs while 150 ECTs are required.

These programmes are highly in demand by students, including foreign students. Every year, many more students apply than can be admitted. This is why the respondent has to impose very strict admission requirements. The fact that the appellant was awarded her bachelor's diploma at an excellent university in [X] that does not offer 150 ECTs of course units in the field of [X] does not imply that an exception should be made to the admission criteria. This could be solved by attending the pre-master's programme. However, the programmes do not offer a pre-master's programme at present to remedy a deficiency of over 30 ECTs. In view of the large number of candidates that do meet the admission requirements, or, alternatively, who have a deficiency of fewer than 30 ECTs, the programmes do not intend to offer a relevant pre-master's programme in the short term. Although relevant work experience may compensate for the lack of specific course units, it is not possible to fully compensate for the lack of 48 ECTs of [X]-related course units by acquired work experience.

### 3 – The grounds for the appeal

The appellant does not agree with the rejection. She studied [X] at [X] University. She has passed a double major in [X] and a minor in [X]. She has passed sufficient course units in the fields of [X], [X], and [X]. These are:

- Introduction to [X]
- Statistics for [X]
- [X] Testing
- Seminar in [X]
- Introduction to [X]
- [X]
- [X] in Historical Perspective
- [X]
- Introductory [X]
- Perception
- Essential [X]
- Introduction to [X]
- [X]
- Principles of [X]
- [X] Tests
- Advance Study of [X]
- [X]
- [X]

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After completing her studies, she performed research in four [X] and field experience in [X], “[X]” [X], and [X]. She was also trained to work as a [X].

The requirements set by the respondent for admission to the programme are not stated on the website nor in the admission procedure. If it had been indicated more clearly that admission requires at least 150 ECTs of course units in the field of [X], the appellant would never have registered for the programme. It is not possible to attend 75 ECTs of course units in [X] at [X] University.

#### 4 – Relevant legislation

In so far as relevant, the Course and Examination Regulations (*Onderwijs- en examenregeling*, OER) of the Master's Programme in [X] 2020-2021 stipulate:

##### Article 5.2.1

Pursuant to Article 7.30b (1) of the Act, holders of one of the following degrees or persons who have successfully completed the following prescribed pre-master's programme may be admitted to the programme and one of its specialisations:

- a) a Bachelor's degree from the BSc programme in [X] of Leiden University with the appropriate specialisation course for the chosen specialisation.
- b) Persons with a bachelor's degree or an equivalent degree from a university who possess the skills, understanding and knowledge that are required to earn the bachelor's degree referred to in Article 5.2.1a. Alongside the requirements specified in 5.2.1a and 5.2.2, the following admission requirements apply for the programme pursuant to Article 7.30b (2) of the Act, more specifically the knowledge at university level of the following topics:

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- introduction to [X]
  - social and organisational p[X]
  - personality [X]
  - cognitive [X]
  - [X] and/or p[X] and/or [X]
  - clinical and abnormal [X]
  - developmental and educational [X]
  - theory or training in interpersonal skills, such as interview, counselling, discussion techniques.
  - theory or training in [X]
  - advanced courses (at least 30 EC) at the level of a third-year bachelor's programme in subjects pertaining to the preferred master's specialisation within the MSc in [X]
  - have sufficient knowledge of [X] [X] (at least 20 EC): introductory and more advanced courses in [X] and [X] of [X] research (including [X], multivariate data-analysis) and the use of [X].
- c) a prescribed pre-master's programme pursuant to article 5.4.1.

#### Article 5.2.2

The Board of Admissions may, on request, admit persons to the programme who do not meet the requirements specified in 5.2.1, but who can demonstrate to the satisfaction of the Board of Admissions that they possess the same level of knowledge, understanding and skills as holders of a degree specified in 5.2.1, points a and b, possibly under further conditions, without prejudice to the requirements specified in 5.2.4.

#### 5 - Considerations with regard to the dispute

In accordance with article 7.61, paragraph two, of the Dutch Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*), the Examination Appeals Board must consider whether the contested decision contravenes the law.

The Examination Appeals Board considers that the contested decisions state only to a limited extent the on which the appellant cannot be admitted to the Programme. They state that the prior education comprises insufficient course units in the field of [X], [X], and [X]. However, they do not specify what particular course units are lacking. The consequence is that a student, such as the appellant, who deems she does meet the prior education requirement with her prior education finds it hard to understand why she has nonetheless been rejected. This means that the contested decision cannot be supported by the arguments upon which it is based, and was taken contrary to Article 3:47 of the Dutch General Administrative Law Act (*Algemene wet bestuursrecht*). The

**Decision** Examination Appeals Board sees no reason to refrain from quashing the decision  
**20-286/ 287** and considers the following to this effect.

Page 6/7 The explanation that was provided by the respondent to the appellant afterwards, as repeated at the hearing, demonstrates that the respondent applies a strict admission requirement that a student must have passed at least 150 ECTs in course units related to [X]. This is the number of ECTs that students who have completed a bachelor's programme at Leiden University have passed at least in course units related to [X]. As the respondent acknowledged at the hearing, this requirement actually entails that the majority of students who have completed an academic bachelor's programme in the United States, Canada, the United Kingdom, and other countries, cannot be admitted to these programmes. That is because it is not possible to attend at least 150 ECTs of course units related to [X] in a bachelor's programme in [X] due to the structure of the curriculum at many, if not all, universities in these countries.

The website provides insufficient information based on which the appellant could have known beforehand that it would be pointless for her to register for the programme. This was also acknowledged at the hearing by the respondent. By not providing this information, the respondent gave candidates such as the appellant false hope that they could be admitted to the programme. This is particularly the case since candidates now have to pay for registration for the programme. Providing accurate information by the respondent to prospective students is part of a process that will ultimately lead to a decision with a standardised motivation. When accurate information is missing, this means that the decision not only lacks substantiation, but also that the decision was not taken with the required due care and that it contravenes Article 3:2 of the Dutch General Administrative Law Act.

At the hearing, the appellant acknowledged that she understands that she cannot be admitted since she does not have the required 150 ECTs of course units in the field of [X], but she strongly regrets that the information relating to this was not provided more clearly in advance. Had this been the case, she would not have made the effort and consequently been disappointed.

In view of the above, the Examination Appeals Board reached the conclusion that the legal consequences of the quashed decision can be upheld. However, the respondent must refund the sum paid by the appellant in respect of the registration fee.

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**The decision**

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The Examination Appeals Board of Leiden University

- I. holds the appeals founded;
- II. quashes the decisions of 30 July 2020;
- III. rules that the legal consequences of the quashed decisions be upheld.
- IV. orders that the respondent compensates the appellant for the registration fee she has paid,

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

Established by a chamber of the Examination Appeals Board, comprised of: O. van Loon, LL.M, (Chair), Dr A.M. Rademaker, Dr J.J. Hylkema, M.C. Klink, M.Jur., BA, and Y.D.R. Mandel, LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, I.L. Schretlen, LL.M.

O. van Loon, LL.M.,  
Chair

I.L. Schretlen, LL.M.,  
Secretary

Certified true copy,

Sent on: