

VRIJE UNIVERSITEIT AMSTERDAM



De Boelelaan 1105
Telephone +31 (0)20 598.5337

EXAMINATION APPEALS BOARD

No 2019/08/852

THE EXAMINATION APPEALS BOARD

Ruling on the appeal of Ms [name], the appellant, residing in [residence], directed against the decision of the constituent examination board of the Bachelor's programme in Psychology at Vrije Universiteit Amsterdam, the defendant, not to grant an exemption for examinations passed by the appellant in Madrid.

I. Course of the proceedings

In an undated letter, the appellant lodged an appeal against the decision by the defendant dated 7 November 2018. The notice of appeal was received on 12 November 2018, which was within the statutory period. The other conditions governing the appeal were also met. The appeal is therefore admissible.

On 15 November 2018, the Appeals Board informed the defendant that prescribed procedure dictates that the defendant, in consultation with the appellant, should determine whether this dispute could be settled amicably. The defendant invited the appellant to engage in this procedure within the statutory period. However, an amicable settlement was not reached.

On 3 December 2018, the defendant filed a written defence. The appeal was heard in a session of the Appeals Board on 31 January 2019.

The appellant appeared in person. The defendant was represented by Dr E.M. Sijbrandij, chair of the constituent examination board for Psychology, and Dr M.V. Milders, member of the constituent examination board for Psychology. The parties clarified their positions orally.

II. The facts and the dispute

On the basis of the documents and the matters presented at the hearing, the Board is taking the following facts into consideration.

The appellant studied Psychology at Complutense University of Madrid between 2014 and 2017. She did not complete the first academic year. The appellant did, however, pass 10 courses from the first and second year of her study programme, which means that she obtained a total of 60 ECTS credits.

The appellant subsequently started the English-taught Bachelor's programme in Psychology at Vrije Universiteit Amsterdam (VU Amsterdam) in September 2018 and applied for exemptions for four courses on the basis of the results that she obtained in Madrid. The requested exemptions were rejected by the defendant because the appellant had not completed her first academic year in Madrid.

The appellant argues that she comes from an impoverished family and was forced to live in very poor conditions during her time as a student in Madrid, as a result of which her academic performance

suffered. The atmosphere at the university in Madrid was negative and the organization left a lot to be desired. For these and other reasons, the appellant fell behind with her studies, despite working hard. The appellant sought information from various universities in the Netherlands about the conditions for registration. In particular, Erasmus University informed her that she would not be able to obtain exemptions because she had not completed her first academic year in Madrid. It transpired that other universities also applied this rule. The appellant notes that, when she registered at VU Amsterdam, she was not informed that completion of the first academic year in Madrid would be a condition to qualify for exemptions.

The defendant substantiates its decision by referring to Article 3.7.2 of the Academic and Examination Regulations for Psychology 2018-2019, which stipulate that an exemption on the basis of academic achievements at another university can only be awarded if the first academic year at that institution has been successfully completed. The appellant passed six of her ten first-year courses and four second-year courses. In other words, she did not complete the first academic year.

The defendant is of the opinion that the appellant had every opportunity to consult an academic advisor in order to find out about the conditions that applied to eligibility for exemption. The defendant made inquiries of the academic advisors and discovered that the appellant made appointments with an academic advisor in September and November 2018 (i.e. after her registration). She kept some but not all of these appointments. Only during the walk-in consultation on 5 September 2018 did the appellant ask about the possibility of obtaining exemptions.

III. Proceedings of the session

The appellant explains that she obtained information from various universities in the Netherlands to find out about the conditions that applied to admission. Erasmus University told the appellant that she would not qualify for exemptions, on the grounds that she had not completed the first academic year in Spain. Other universities expressed a similar position, one more emphatically than the other. VU Amsterdam made no mention at all of this condition for exemptions. Nor did the VU website provide any conclusive information on the matter. Only at the hearing with the defendant did it become clear to the appellant that the 'Rotterdam rule' also applied at VU Amsterdam.

The appellant states that she corresponded with an academic advisor at VU Amsterdam about the possibility of obtaining exemptions, and this correspondence led her to conclude that she would be entitled to exemptions. The appellant was never told that she would only qualify for exemptions if she had completed the first academic year of her studies in Spain. She believes that she submitted the emails in which she discussed exemptions with the academic advisor as part of the procedure, through the defendant's secretariat. However, neither the defendant nor the Appeals Board received this correspondence. At the request of the Appeals Board, the appellant has agreed to send this correspondence after the hearing.

The appellant adds that in a telephone conversation with an academic advisor she also inquired about the obligation of having completed the first year of her previous degree programme. However, there is no recording or other evidence of that conversation.

The defendant refers to the Academic and Examination Regulations, which contain the rule generally applied in the Netherlands that no exemption is granted on the basis of credits obtained by a student who did not complete the first academic year. This condition is related to the binding recommendation for continuation of studies issued by Dutch universities at the end of the first academic year.

The defendant notes that the English translation of this article from the Academic and Examination Regulations is less clear than the original Dutch text.

The appellant's request concerns exemptions for courses in the first academic year, but also in the second. When asked, the defendant explains that the appellant could have been exempted from a second-year course. The defendant did not, however, notice that the exemptions requested also included second-year courses.

The defendant points out that all relevant regulations can be found on the VU website and the web pages of the programme concerned.

After the hearing, the appellant sent the correspondence with the academic advisor to the Appeals Board. This correspondence was then also presented to the defendant. The defendant observes that the appellant received her information from the International Office, not from the programme itself. The International Office indicates that a student only qualifies for admission to the second year of a programme if they have obtained 60 ECTS credits from another institution as part of a comparable programme in terms of content and academic level. No mention is made of the fact that individual exemptions on the basis of first-year courses can only be granted in cases where the student has completed the first year of the programme on which the exemptions are based. The defendant, however, persists in its position on the grounds that the rules governing exemptions for all students can be looked up in the Academic and Examination Regulations.

IV. Findings of the Board

Legal context

Article 3.7 paragraph 2 of the Academic and Examination Regulations for Psychology stipulates that an exemption for a student who has previously studied at a different university is only possible if the student has successfully completed the first academic year of their studies at the other university. The relevant text reads:

'Exemption possibilities based on first year units of study from other educational institutions, can only be considered when the student has met the conditions and obligations of the first year.'

The original Dutch text reads:

Vrijstelling op grond van een elders behaald eerstejaars vak (onderwijsonderdeel) kan alleen worden toegekend als de verzoeker elders de verplichtingen van het eerste cursusjaar met goed gevolg heeft afgesloten.

Considerations

The Appeals Board finds that the appellant has provided the defendant with a list of results from her studies in Madrid as a basis for obtaining exemptions. This list makes it abundantly clear that the appellant did not complete her first academic year at that institution.

The Appeals Board also finds that a careful examination of the exemption request should have shown that appellant wished to obtain exemptions for both first-year and second-year courses.

The defendant's rejection decision contains only a single reference to Art. 3.7 paragraph 2 of the Academic and Examination Regulations, and provides no further substantiation. The defendant now acknowledges that, in its written response to the additional documents submitted, it mistakenly failed to take into consideration when making its decision the information provided to the appellant by the International Office (information the defendant regards as inadequate). On this basis alone, the decision must therefore be annulled.

The Appeals Board is of the opinion that the correspondence between the appellant and the International Office submitted after the hearing is the crucial information on which the appellant based her decision to study at VU Amsterdam. The defendant's decision not to grant exemptions was not prepared with the requisite care and does not rest on a full consideration of the interests involved. Moreover, the decision does not provide any ruling on the exemptions that do not relate to the first year. For this reason too, the defendant's decision is based on an incomplete consideration of interests. The defendant will be instructed to issue a new decision, one which takes due account of the information provided by the International Office and which also addresses the exemptions that relate to second-year courses. In this regard, the Appeals Board notes that VU Amsterdam is among those universities which require a student to complete the first academic year at another university in order to be eligible for exemptions (Article 3.7, paragraph 2, Academic and Examination Regulations). It is primarily the defendant's responsibility to determine whether and to what extent the incorrect or incomplete provision of information by the International Office provides sufficient grounds for the appellant to lodge a successful appeal based on the confidence engendered by the information provided; this process should include a consideration of whether and to what extent the appellant's appeal should be understood as an appeal to the hardship clause (Article 6.1, Academic and Examination Regulations) as a basis for deviating from Art. 3.7, paragraph 2.

V. Ruling

The Board rules that the grounds for the appeal are sound and quashes the contested decision. The Appeals Board orders the defendant to review its decision on the appellant's request for exemptions pertaining to courses in the first and second year of her study programme and to do so within two weeks of the publication of this ruling and with reference to the considerations presented by the Appeals Board.

Drawn up and signed at Amsterdam on 21 February 2019 by Prof. F.J. van Ommeren, chair, Dr J.R. Hulst, Prof. H.A. Verhoef and Prof. W. van Vlastuin, members, in the presence of J.G. Bekker, secretary.

Prof. F.J. van Ommeren,
Chair

J.G. Bekker
Secretary

An appeal against a ruling by the Examination Appeals Board may be lodged with the Higher Education Appeals Board, PO Box 16137, 2500 BC The Hague, by the relevant party and accompanied by proper justification. The statutory period for lodging an appeal is six weeks. The filing fee is €47.