



DECISION 20 - 387

Rapenburg 70
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of the Examination Appeals Board of Leiden University

in the matter of the appeal of

[name] from [place], appellant,

against

the Board of the Faculty [X], respondent.

The course of the proceedings

The appellant requested to be admitted to the Bachelor's Programme in [X] (hereinafter to be referred to as "the Programme").

The respondent rejected the request in a decision of 28 August 2020.

The appellant sent a letter on 31 August 2020 to lodge an administrative appeal against this decision.

On 3 September 2020 and 10 October 2020, the appellant added further to the grounds of his appeal.

The respondent informed the Examination Appeals Board that it had investigated whether an amicable settlement could be reached between the parties. An online meeting took place on 24 September 2020. No amicable settlement was reached between the parties.

The respondent submitted a letter of defence on 13 October 2020.

The appeal was considered on 4 November 2020 during an online hearing of a chamber of the Examination Appeals Board. The appellant appeared at the



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hearing. [name] appeared on behalf of the respondent. [names] of the Admissions Office also attended the hearing.

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Considerations

1 – Facts and circumstances

The appellant requested to be admitted to the programme. In May 2020, he uploaded documents about his prior education in Usis. The platform then displayed the message “Approved”. The documents he sent included his Belgian diploma of *Technisch Secundair Onderwijs*. He also attended a programme at [X] University but did not sit the final exams.

2 – The grounds for the appeal

The appellant stated that he was confident that he met the admission requirements since the message “Approved” appeared shortly (about two weeks) after he had uploaded a number of documents, which included his [X] diploma of *Technisch Secundair Onderwijs* (VWO) in Usis in May 2020. [VWO - Dutch pre-university secondary education] Had he known that his prior education did not suffice, he would have sat the final examination in [X] at the time. He would still sit the final examinations in [X] in mid-November 2020. It was not until four months later that he received a message that his diploma of *Technisch Secundair Onderwijs* did not meet the admission requirements.

He studied in [X] during a gap year, but he did not focus on completing course units, since his prior education had already been accepted according to the information on the website. He believed that the request to provide information about his programme at [X] University was merely a formality and did not expect to be assessed on that information.

The website continued to display “Ready for decision”; he called four times for more information. Now, he has lost valuable time, since he cannot start his programme. He incurred costs (housing and study allowance), as he assumed that he would start the programme on 1 September 2020.

The appellant stated that he had previously received notice to provide information about his prior education, following his request for admission. He complied in May 2020. Only at the end of August 2020 was he informed that his prior education did not meet the requirements to be admitted to the programme. However, he received a welcome message by email in September 2020. Due to this defective manner of communication he faces a year of study delay. He should



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have been informed in May 2020 that his prior education did not meet the requirements. In that case, he would still have had an opportunity to remedy it.

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3 – The position of the respondent

The respondent takes the position that the appellant's prior education does not meet the requirements that apply for admission to the programme. These rules are clearly listed on the website. Admission is only final after a confirmation of admission has been sent.

The appellant's prior education, *Technisch Secundair Onderwijs* (TSO) in [X], is not considered to be equivalent to the Dutch VWO diploma. The appellant therefore does not meet the entry requirements. Only a diploma of *Algemeen Secundair Onderwijs* (ASO) meets the academic requirements. This information was available on the website during the admission period. Consequently, the appellant could have known that he would not be admitted based on the TSO diploma.

The message "Approved" that Usis displayed documents are uploaded does not mean that the documents have been approved, but merely that part of the admission procedure has been completed successfully and that the documents are sufficient for a decision to be taken. Once the information has been uploaded, the Admissions Office reviews the content, to determine whether the information is complete. If so, the system will display the message "Approved". Only after that is an assessment made whether the appellant meets the requirements for admission to the programme.

The appellant submitted information about the *Technisch Secundair Onderwijs* diploma. When he applied, he indicated that he was also attending a programme at [X] University. Since he could not be admitted directly based on the TSO diploma, the Admissions Office requested him in early May 2020 to also provide that information so that it could be included in their assessment since this information might be relevant, assuming he attended a bachelor's programme. The request was sent by means of a general email in Usis, which referred to the portal. The appellant's file has since been deleted, which means it is no longer possible to demonstrate which messages were sent to him.

The appellant only submitted the requested information about his programme at [X] University in week three of August 2020. It became clear that it was not a bachelor's programme that would qualify for admission to the programme. Shortly afterwards, on 28 August 2020, the decision was taken to reject his request for admission.



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The welcome email received by the appellant in September 2020 was a standard email sent to all students who registered before April 2020. The email is intended to keep them engaged.

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Finally, the respondent offered apologies in an email message on 1 October 2020 for the fact that the appellant was only alerted to alternative options to be admitted to the programme in a later stage of the admission procedure.

Alternatives include completing the first year of a Dutch HBO programme or at a Belgian university. The appellant could also obtain an equivalent to the Dutch VWO examination by sitting a state examination in [X].

4 - Considerations with regard to the dispute

In accordance with article 7.61, paragraph two, of the Higher Education and Academic Research Act (*Wet op het Hoger Onderwijs en Wetenschappelijk Onderzoek*; WHW), the Examination Appeals Board must consider whether the contested decision contravenes the law.

From the documents and the explanation at the hearing, it is apparent to the Examination Appeals Board that the respondent refused the appellant admission to the programme on just and proper grounds. His diploma of secondary education of 30 June 2019, awarded by the [X] in [X], does not meet the requirements set in the OER (Course and Examination Regulations) for admission to the programme. The appellant does not deny this. This means that the administrative appeal is unfounded.

However, the Examination Appeals Board sees cause to consider the following with regard to the course of the procedure. The appellant mainly objects to the manner in which the admission procedure was handled. The Examination Appeals Board endorses his opinion. At the hearing, it became clear that the Admissions Office assesses the information that has been submitted for each request for admission individually. Although this information is not yet assessed on substance, a review is made of whether the information submitted is sufficient to process the request for admission. The message “Approved” that appears in the portal as a consequence is confusing, to say the least. The Examination Appeals Board urgently advises the respondent to amend this message.

Although it should have been clear from the outset, in view of the information on the website and the expertise of the Admissions Office, that the diploma submitted by the appellant is not equivalent to a VWO diploma, the Admissions Office only requested the appellant at a very late stage in the procedure (by early August 2020) to submit information about the programme he was attending at [X] University. The Admissions Office should have done so much earlier, as it



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was no longer possible at that time for the appellant to still meet the admission requirements, by sitting the state examination in [X], for instance. The respondent should also have taken into account that the appellant would already have made preparations at that time (and incurred costs), in view of the fact that he believed that he would be able to start the programme by 1 September 2020.

The Examination Appeals Board established that the respondent has already apologized to the appellant in this respect in the email message of 1 October 2020. At the hearing, the respondent also indicated that it would be advisable to clarify communication in the admission procedure.



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The decision

The Examination Appeals Board of Leiden University,

holds the appeal unfounded

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, M.C. Klink, M.Jur. BA, Dr J.J. Hylkema, MA, and E.L. Mendez Correa, 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: