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DECISION 23-661

of the Examination Appeals Board of Leiden University

on the administrative appeal of

██████████, appellant,

against

the LIACS Board of Examiners, respondent

The course of the proceedings

In its decision of 19 August 2023, the respondent issued a so-called MoMi statement to the effect that the appellant failed to make sufficient academic progress in the 2022-2023 academic year.

The appellant lodged an administrative appeal against this decision.

The respondent submitted a statement of defence on 11 December 2023.

The administrative appeal was considered during a hearing on 24 January 2024.

The appellant attended the hearing online. ██████████ and ██████████, ██████████, ██████████ of the Board of Examiners, respectively, attended the hearing on behalf of the respondent.



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Considerations

The appellant attends the Master's Programme in Computer Science and achieved less than 50% of the study credits to be achieved in the 2022-2023 academic year. The respondent informed the appellant that the Dutch Immigration and Naturalisation Service (hereinafter: IND) must be notified of the fact that he achieved insufficient study credits.

The appellant has a statement of functional impairment, which indicates that he was impaired in his studies due to personal circumstances during the period from 1 September 2022 to 26 March 2023 and severely impaired from 26 March 2023 to 31 August 2023.

The Examination Appeals Board notes that the Dutch Modern Migration Policy Act (*Wet modern migratiebeleid* - MoMi) serves to ensure that students subject to visa requirements use their stay in the Netherlands primarily to study and not to develop other activities. In this context, it is important that some study progress is made, even in the case of an excusable deficiency.

The appellant obtained a total of 6 ECTS out of the 48 ECTS he had yet to obtain. The only way he could have obtained more credits is by successfully completing the Master's Thesis of 42 ECTS. However, in light of the statement of functional impairment, this is a disproportionately onerous requirement. This means that the appellant met all the requirements that could reasonably be imposed on him, so there were insufficient grounds for a negative MoMi statement. Consequently, the respondent also erred in reporting this to the IND.

This means that the administrative appeal is well-founded and the contested decision must be quashed. The Examination Appeals Board instructs the respondent to withdraw the notification to the IND.



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Decision

In view of Article 7.61 of the Higher Education and Academic Research Act, the Examination Appeals Board of Leiden University

- I. holds the administrative appeal founded;
- II. quashes the contested decision;
- III. instructs the respondent to withdraw the notification to the IND.

Established by a chamber of the Examination Appeals Board, comprised of: O. van Loon, LL.M., (Chair), Dr A.M. Rademaker, J.H.M Huijts, LL.M., J.J. Christiaans, B.A., and R.A. Brouwer, LL.B., (members) in the presence of the secretary of the Board, E.M.A. van der Linden, LL.M.

O. van Loon, LL.M.
Chair

E.M.A. van der Linden, LL.M.
Secretary

Sent on:

Certified true copy,