

## DECISION 14–094

of the Examination Appeals Board of Leiden University

in the matter of

the appeal of [name], appellant

against

the Board of Examiners of Asian Studies, respondent

### 1. Origin and course of the proceedings

On 22 May 2014, the appellant received approval from the Board of Examiners of Asian Studies (hereafter: respondent) with regard to her proposal to carry out field work in Egypt, in the context of the Research Master's in Middle Eastern Studies. The appellant applied for a scholarship (*Lustra- en Outboundbeurs*) to fund the fieldwork.

On 28 May 2014, the respondent suspended its approval and the application to award scholarships for the funding of the fieldwork was rejected due to the negative travel advice that had been issued by the Ministry of Foreign Affairs for all non-essential trips to Egypt.

On 2 June 2014, the appellant lodged an administrative appeal against this decision.

In short, the appellant argued that she requested permission to carry out a fieldwork project entitled “New Migration Fomenting Old Nationalism?” as part of her master's thesis because of her interest in the North African and Libyan region. The respondent approved the project and indicated that the project could be granted a maximum of 28 ECTS. Following this approval, the appellant applied for a scholarship to fund the field research. Her request was rejected due to the negative travel advice for this region. Leiden University and, consequently, the Board of Examiners consider themselves bound to the negative travel advice. The appellant disagrees with the decision and feels that the negative travel advice should not affect her research. She argues that she speaks the language and that she acquired considerable experience in Libya when she lived there for three years. Furthermore, she states that it has been her intention since the start of her

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enrolment in the Middle Eastern Studies programme to research the subject of migration in Libya and nearby countries during a stay in the region. She stresses that the field research is essential to write her thesis and for her continued academic development and career. She states that she cannot think of any other options that will allow her to research the subject in another way.

She stresses that she knows the region well and will be able to guarantee her own safety, mainly because she is of Chinese origin and therefore less exposed to risks than people of Western origin. She argues additionally that the Chinese Ministry of Foreign Affairs did not issue a negative travel advice for Chinese citizens.

Finally, she refers to her thesis proposal in which the subject she has chosen is comprehensively substantiated and explained. The appellant requests that an exception be made in her case and that the decision be reconsidered.

The appeal was considered on 18 June 2014 during a public hearing of a chamber of the Examination Appeals Board. The appellant appeared in person at the hearing. [names] were heard on behalf of the respondent.

## **2. Considerations with regard to admissibility**

The appellant lodged a timely appeal against the decision of 28 May 2014 with her letter dated 2 June 2014 that was received on 4 June 2014 by the Examination Appeals Board. Furthermore, the letter of appeal also meets the requirements as stipulated in the General Administrative Law Act (*Algemene wet bestuursrecht*, “Awb”) and the Higher Education and Academic Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*, “WHW”). Consequently, the administrative appeal is admissible.

## **3. Relevant legislation**

According to the Leiden University Regulation on Studying Abroad, hereafter: “the Regulation”, each student who is enrolled at the university and who is due to travel abroad or who is already staying abroad in the context of a study programme, is bound to abide by all instructions of Leiden University and to comply strictly with the Regulation.

Pursuant to Article 3, paragraph four, of the Regulation, the University will base its opinion about the occurrence of a calamity or an imminent calamity at least in part on information provided by the Dutch Ministry of Foreign Affairs.

## **4. Considerations with regard to the dispute**

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In accordance with article 7.61, paragraph two, of the WHW, the Examination Appeals Board must consider whether the contested decision is contrary to the law.

In its decision against which the administrative appeal was lodged, the respondent suspended his earlier approval that had been granted to carry out field research in Egypt. The application for a scholarship to be awarded for the purpose of the research was also rejected.

The appellant and the respondent both elaborated on their views at the hearing.

The respondent explained at the hearing that the Executive Board takes its duty of care and responsibility for students and staff members seriously and - as such - cannot accept responsibility for students who - in the context of their programme - wish to travel to a country that is in an unsafe or potentially unsafe situation. When a negative travel advice (issued by the Ministry of Foreign Affairs) applies to the relevant country, it is out of the question to travel to this country for study purposes. The Executive Board always holds travelling for study purposes to be non-essential travelling. The Executive Board and the Faculty Board share this view. Alternative options are always open to discussion to complete an "unsafe or imminently unsafe" foreign study component in order to mitigate the adverse effects for the student as far as possible. Until recently, an appeal to the Executive Board to make an exception in an individual case was open to discussion and written approval could be obtained. However, this is currently an option that is only available to extremely unique cases.

There is no question that the field research in Egypt in the context of the master's programme of the appellant is under the responsibility of Leiden University. Furthermore, there is no question that carrying out field research of the structure and type s intended by the appellant is not an obligatory component of the relevant master's programme.

The Examination Appeals Board considers that the appellant would travel and stay in Egypt for the field research in her capacity as a student of Leiden University. Since the Regulation and the policy of the university are clear, it ensues that the university cannot assume responsibility for students in an "unsafe or imminently unsafe" foreign country. The Examination Appeals Board can concur with the view on which the Regulation and the policy are based, that travelling in the context of an educational programme will always be deemed non-essential according to objective criteria. The appellant's view that travelling to Egypt and the execution of local field research are essential to her, is not relevant in this respect. Neither is it relevant whether the appellant herself feels

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that she will be able to stay there safely; in this context, the view of the Executive Board is of overriding importance as well as the responsibility this Board can and will assume for its students.

Consequently, the Examination Appeals Board deems it correct that the previously granted approval for the execution of field research was suspended based on the negative travel advice with a view to the unstable situation in the Middle East and that the award of a scholarship was also rejected as a corollary.

The respondent endorses the foreign policy and indicated that an alternative for completing the research and the thesis will always be possible and open to discussion, to mitigate the adverse effects for the student as far as possible. Besides, the respondent stated that no study credits will be awarded for the research if the appellant were to decide to depart on her own initiative.

The Examination Appeals Board does realise that the appellant will be deeply affected by the contested decision, since she specifically chose Leiden University in connection with the option to perform field research and since she has been working on her subject for a considerable period of time. However, the Examination Appeals Board cannot share the appellant's reasoning that her case is not comparable to other students' cases. The situation of the appellant is simply that she wants to travel abroad (to Egypt) in the context of her studies with the intention of carrying out research there and obtaining study credits based on this research. As considered above, Leiden University always holds travelling and staying abroad for study purposes to be non-essential. In the present case, it cannot be ignored that the study component can also be executed in another manner in consultation with the respondent. This conclusion is not affected by the fact that the appellant does not opt to do so.

Therefore, the Examination Appeals Board does not see cause to hold that the respondent has acted contrary to the law. Since the Examination Appeals Board has not been informed of any other facts or circumstances that could 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,

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, Professor E.M. Noordijk, Dr A.M. Rademaker, Professor T.M. Willemsen and Ş.Ö. Zengin, LL.B. (members), in the presence of the Secretary of the Examination Appeals Board, M.A.C. de Boer, LL.M.

O. van Loon, LL.M.,  
Chair

M.A.C. de Boer, LL.M.,  
Secretary

Certified true copy,

Sent on: