

Input from UNL for online consultation on bill for a balanced approach to internationalisation

Universities of the Netherlands (UNL) wishes to take this opportunity to respond to the bill for a balanced approach to internationalisation in Dutch higher education (*Internationalisering in Balans*). The universities are satisfied with the management instruments included in the bill, but are very concerned about the feasibility of the implementation a number of the proposals contained in the bill. These concerns relate, for example to the deadlines set in the bill, which are much too tight, as well as the impossibility of large-scale recruitment of Dutch lecturers given the lecturer shortage. In addition, there are serious concerns about the proposed far-reaching intrusions into the autonomy of universities. That autonomy is essential to the delivery of education and research of the highest quality and will come under pressure if the proposals with regard to language were to be enacted.

The key points of our response to the bill for a balanced approach to internationalisation are as follows:

1. The importance of internationalisation and addressing problems
2. Universities want to be able to control their student intake; management instruments are essential to this
3. The bill lacks sufficient detail and will lead to serious implementation problems
4. The proposed measures with regard to language will reduce the quality of education and research
5. The universities propose the following: sectoral control over the language of instruction and an additional focus on improving proficiency in the Dutch language for students and staff.

Appendix: comments regarding specific matters and the wording of Sections in the Explanatory Memorandum

1. The importance of internationalisation and addressing problems

The international dimension of higher education is crucial for society at large. Internationalisation contributes to a stimulating academic climate, better alignment with international developments and the training of (sufficient numbers of) talented individuals to meet the demands of the labour market. It enables Dutch and international students to learn a great deal from each other, and they benefit from the fact that universities attract academic talent from all over the world to teach and conduct research here. Dutch universities therefore welcome international students and researchers, and offer degree programmes that are taught in both Dutch and English (see the overview of programmes and their language of instruction [here](#)). This development is in line with government policy on internationalisation in higher education, as set out in the Bologna Declaration, for example. We also see this reflected in Europe-wide agreements. Lastly, the Netherlands is a small country with an open economy. Many of our employers operate in an international environment. Dutch graduates often need to be able to communicate in English and to operate in an international context.

At the same time, Dutch universities are aware of the problems. The universities are aware the increased intake of international students is causing problems in a number of universities and university cities. Degree programmes sometimes grow at a huge pace, the poorly functioning housing market poses a serious challenge to all students, including those from abroad, and support for non-Dutch teaching is under pressure, in part because of the growing international student intake. These issues need attention and reconsideration. Dutch universities feel they an important and undiminished responsibility to preserve Dutch as an academic language. It is precisely because of the crucial importance of a high-quality and internationally oriented university sector that solving the above-mentioned problems is essential. The universities therefore broadly supported Minister Dijkgraaf's letter of 21 April 2023 to the House of Representatives about internationalisation, in which he outlined both the great importance of internationalisation to the quality of Dutch university education and research and to the Netherlands as a whole, and also identified the problems requiring a solution.

However, the links that the bill makes between the stated objectives and the associated measures are incorrect. Language measures should be focused on improving language skills, and should not be used as a means to manage the international student intake.

The diversity of the problems is an important element of this issue. A great deal of attention has already been paid to it in the public arena and the political debate, and rightly so. Universities vary hugely and internationalisation is to some degree part of each institution's profile. The international dimension is now a well-established feature for all universities, although it differs from one university to another. Examples include the research profile, the range of degree programmes offered, the phase of their studies in which international students enter the university, collaboration with the business community, ties with sectors with labour shortages, as well as accompanying factors such as the tight housing market. These matters are important not only to universities but also to society. The bill ignores this diversity by applying uniform language rules, which fail to do justice to the richness that this diversity of international partnerships and interactions brings to our country.

Another relevant issue in the discussion about managing the international student intake is the funding system. Universities have pointed out more than once that this system creates an undesirable growth incentive and that what is needed is a move towards capacity-based funding – in the foreseeable future – to minimise one factor in the growth of the international student intake. Greater efforts to provide student housing are also required. Universities are already doing their best in the National Action Plan for Student Accommodation, but student accommodation still needs to be built and this is outside the remit of educational institutions. It must be stressed that both these issues cannot be addressed by means of an amendment of the Dutch Higher Education and Research Act (WHW), but they do need to be tackled to ensure that the benefits of internationalisation are not put in further jeopardy because it is not being managed efficiently.

2. Universities want to be able to control their student intake; management instruments are essential to this

The universities are delighted to see that the enrolment quota tool kit (a quota for pathways, a cap on the number of non-EEA students within an enrolment quota and an emergency enrolment quota) has been expanded in the bill for a balanced approach to internationalisation. Universities have with good reason been asking for tools that will enable them to manage their student intake since 2018. It is now a matter of making them available as soon as possible so that universities are able to align their student intake with the available educational capacity and to manage it in a more targeted way. This could, for example, be done by setting a quota for an English-taught pathway and not for a Dutch-taught one, or by setting quotas for a number of pathways within a degree programme with different capacity. This would make it far easier for degree programmes to maintain quality and accessibility than would be the case if the entire degree programme were subject to an enrolment quota. In light of the political situation, it would be advisable to make such management instruments available, at least in the short term – even when other elements in the bill are considered to be controversial. The pressure in some places is unacceptably high, putting the quality of education in jeopardy. Universities want and need to be able to take responsibility for this themselves; waiting much longer is really in no one's interest.

3. The bill has not been properly thought through and detailed and will therefore lead to serious implementation problems

Universities anticipate insurmountable difficulties in the implementation of the bill: the text of bill lacks sufficient detail to make its impact foreseeable, important decisions will be taken at a later date by enacting subordinate legislation, the time frames outlined are wholly infeasible, it will be impossible to recruit the necessary staff numbers, and implementing all the measures will be much more costly than is being estimated. The implementation assessment that will be carried out in parallel with the consultation shows how wide-ranging and intractable these problems are and will be.

Many matters that will be critical to the implementation of the bill remain unclear:

- The detailing of the exemption grounds for Dutch-taught Bachelor's programmes;
- The criteria for the non-Dutch-taught education assessment;
- How the huge diversity among universities in terms of region, sector and other aspects as well as perceptions of the problems will be factored into the (further) regulations;
- How the assessment is to be made as to whether two-thirds of a Bachelor's programme is taught in Dutch, given that degree programmes always have an elective component;
- The grounds on which the Minister can deviate from the advice of the assessment committee and the grounds on which the Minister can withdraw his consent; this will not provide universities sufficient insight into whether the assessment is objective;
- When Master's students have met the best efforts obligation with regard to language and how this can be established. The bill does not specify a period which a student is required to have completed the 56 hours. Dutch-speaking students could therefore argue that they already completed those 56 hours in secondary school or during their Bachelor's programme. Non-Dutch-speaking students could argue that they completed those hours during a non-Dutch-taught Bachelor's programme completed in the Netherlands. Consequently, the only group for which this has any relevance is that of non-Dutch-speaking students who have not previously completed a Bachelor's programme in the Netherlands.

Moreover, several crucial matters are to be provided for in ministerial regulations, such as a definition of 'non-Dutch-taught' and 'non-Dutch-speaking' (*anderstaligheid*). This will result in an unreliable government and will lead to legal uncertainty for universities and students in all phases of their academic careers. Laying down criteria for efficiency and the definition of 'non-Dutch-taught' and 'non-Dutch-speaking' in a policy rule (yet to be drawn up) is not a legitimate means of adopting regulation, as the policy rule would be very easy to amend without a parliamentary vote being required, and would also create legal uncertainty. The threat of an unreliable government will not only affect universities, which will constantly face the risk of being required by the government to make changes in the degree programmes, along with the risks in terms of the feasibility of the implementation of rules which that entails, but students in particular will also be affected. Due to this political interference, they could be faced with a situation where the design of a degree programme changes from what they had carefully opted for. Such matters really are the responsibility of the institutions, and if they have to be centrally arranged at all, this should certainly be laid down in an order in council (*algemene maatregel van bestuur*) submitted to the House of Representatives for preliminary scrutiny.

The deadlines and time frames outlined in the bill are too tight to allow a careful process and coordination with the participation bodies and other bodies.

- It is completely impossible for degree programmes to prepare a proposal for non-Dutch-taught degree programmes within six months of the bill entering into force if the efficiency criteria for the non-Dutch-taught education assessment have been detailed yet.
- The period for converting a degree programme from an English-taught one to a Dutch-taught one as stated in the bill is altogether too short. At the moment, it is set at two years, but this will not be feasible for degree programmes because institutions have to provide clarity about the content of the degree programme concerned for the academic year by 1 October at the latest. Furthermore, there is no mention of the composition of the academic staff in relation to the quality of the degree programme. It would make sense to choose the set length of a programme plus one year as the period, or better still, consult the institution concerned.
- The list of degree programmes that have completed non-Dutch-taught education assessment is reviewed or supplemented every two years where necessary. This period is unreasonably short; six years is a logical period since it would align with programme accreditations, the workload would be reduced and universities would be more confident about investing in lecturers.

Attracting Dutch language teachers and academics with an adequate command of Dutch is another example of the problems. There are not enough expert staff members to give all students the stated number

of hours of language tuition. This applies both to the provision of Dutch-language education in sectors where attracting academic staff in sufficient numbers is already difficult, and to offering Dutch as a new language. Continuing with the rules proposed at present will inevitably result in NT2 lecturers leaving their current jobs and that seems socially undesirable.

The estimate of the financial consequences for institutions is unrealistic. The proposed measures include a significant increase in the regulatory burden, a substantial expansion and complication of the obligations regarding the promotion of language skills and, therefore, an increased workload for universities. Moreover, the financial consequences, including the adverse side-effects for Dutch earning capacity, have not been analysed thoroughly. The bill ignores the positive effects of internationalisation, both within institutions and, for example, on economic activity, local/regional employment and tax revenues. The Netherlands Bureau for Economic Policy Analysis (CPB) has already produced a substantiated estimate of its effects. The government should examine the impact of the measures on, for example, tax revenues and the competitiveness of the Netherlands in general and on the institutions and the regions they are in, in particular.

4. The proposed measures with regard to language will reduce the quality of education and research

The universities are very concerned about the far-reaching proposals with regard to language. The bill mentions that at least two-thirds of a programme must be provided in Dutch and if it is not, will be regarded as a non-Dutch-taught programme. In future, the Minister will determine whether a degree programme may teach in a language other than Dutch. The minister gives this consent based on a 'non-Dutch-taught education assessment' (*toets anderstaligheid*) still to be detailed. The bill also obliges universities to provide five credits (140 hours) within the curriculum of a non-Dutch-taught Bachelor's programme to promote Dutch language skills. A minimum of two credits (56 hours) outside the standard curriculum applies to non-Dutch-taught Master's programmes. **If these measures are enacted, the government will have direct control over the curriculum and the exit qualifications of degree programmes. This is a significant encroachment on the autonomy of universities that will have a direct negative impact on teaching quality.** It will also make it impossible to customise education, even though customisation is often in the interests of students.

The advisory report entitled 'Kiezen voor kwaliteit' of the independent working group led by Elmer Sterken, the former Rector Magnificus of the University of Groningen, states the following about this: 'Universities will have to be adaptable and agile if they are to respond quickly to changing circumstances. Differentiated growth, in order to meet labour market demands, for instance, depends on the autonomy of institutions. Such autonomy is not a given; it is accompanied by a strong drive towards transparency and accountability. Underlying this is an argument for the autonomy of universities that is just as fundamental. Autonomy is essential for a healthy, democratic and resilient society. During the Covid-19 pandemic we saw how fragile trust in social institutions is, and how important it is that Dutch society can have full confidence in the independence of science. Autonomous universities really do hold the key to this. Not as an end in itself, but rather as a 'home of independent research and education'. (pp. 41-42)

Below, we set out why and how these language measures will negatively affect the quality of education and research.

- **The government will be determining part of the curriculum, which sets a dangerous precedent.** The basic principle of the WHW is that it is up to educational institutions to determine the content and the exit qualifications of their degree programmes. Intervening in the curriculum is contrary to the system provided for by the law and to the socially desirable independent position of universities - and also entails a significant risk of precedent-setting.
- **The content and quality of degree programmes will instantly be reduced.** In 140 hours, students will acquire at best a rudimentary basic knowledge (A1-level) of the Dutch language. This will directly

affect space in the curriculum for substantive subjects and could seriously disrupt current educational modules and existing learning pathways.

- **Differentiation in compulsory material and learning outcomes for different groups of students will render the same degrees incomparable.** The bill creates a differentiation in compulsory material and learning outcomes between Dutch-speaking and non-Dutch-speaking students, even though they have received the same degree. Dutch-speaking students taking non-Dutch-taught degree programmes can be expected to meet the minimum annual hours of instruction relatively easily by carrying out existing learning activities in Dutch. Non-Dutch-speaking students will have to take subjects taught in Dutch in their academic Bachelor's programmes. In 140 hours, those students will acquire at best a rudimentary basic knowledge (A1-level) of the Dutch language, at the expense of substantive subjects. Moreover, once such a course becomes part of the curriculum, all students, so Dutch-speaking students as well, will be entitled to take it: this follows from Section 7.34 of the WHW. That means that students will also be able to request exemption from this component if they have already achieved the learning objectives of the course (and, given their primary school and secondary school education, that will be the case). The Dutch-speaking students who do this will therefore be gifted five credits. This is further evidence that taking Dutch-language subjects (non-academic level) within the curriculum is not the right approach.
- **The decision to lay down a provision for the minimum annual hours of instruction for both Bachelor's and Master's programmes is at odds with the intention to allow each institution, faculty and degree programme to offer tailored education.** Educational institutions are now paying the price for the 'Hague regulations' concept - which rarely if ever take account of the specific situation and therefore the intended objective.
- **The efficiency test means that the choice of the language of instruction can no longer be based on quality considerations.** As the Minister will in future decide on the basis of efficiency criteria whether a degree programme may be taught in another language, degree programmes will no longer be able to align the language in which a programme is taught with the learning objectives and the didactic model (e.g. International classroom). After all, the non-Dutch-taught education assessment will be based on efficiency, not quality.
- **The survival of small-scale degree programmes is under threat.** The survival of a number of unique small-scale degree programmes will be under threat if it becomes mandatory for the programme to be taught in Dutch, because sometimes there are too few Dutch students for a programme to survive. This will result in an irreversible reduction in supply and quality, both for specialist degree programmes and for regions experiencing population decline.
- **The cap which the Minister of Education, Culture and Science can impose on the number of students to be enrolled in non-Dutch-taught programme or pathway is too crude an encroachment on institutions' autonomy.** Universities are prepared to coordinate among themselves (e.g. during domain consultations) and with the Minister if the quality of education and/or the accessibility of certain degree programmes are jeopardised because of excessive pressure associated with applications made by current or prospective students. In the interest of the independence and - therefore - the quality of education, the initiative should remain with the institutions and not with the government.
- **The best academics will be lecturing less often; consequently, fewer of the best academics will be conducting academic research at Dutch universities.** The close link between research and teaching is one of the core aspects of academic education. Academics with their feet in stuck in 'research clay' will not teach students. They bring the latest scientific knowledge to their teaching and in this way train future academics. At present, 46% of academic staff come from other countries. Some of the international staff speak Dutch and also teach in Dutch. Some, however, do not. Expectations are that this bill will lead to more subjects and more degree programmes being taught in Dutch. One option is to have Dutch-speaking academic staff spend much more time teaching and less time on research; this would be undesirable as far as the quality of education and research and the close

relationship between them are concerned and unappealing to academic staff (WP). Another option is to terminate unilaterally the contracts of international academic staff and recruit more Dutch-speaking academic staff. This is often impossible in the tight labour market and most undesirable in the international research world. When taking on academic staff, faculties will be obliged to favour a Dutch-speaking candidate over a candidate with superior capabilities but who speaks little Dutch. In short, the quality of research conducted by Dutch universities and their international positioning will deteriorate as a result. A final option is to have non-Dutch-speaking academic staff teach in Dutch; this is often not an option. The Dutch language level has to be very high if Dutch-language teaching of acceptable quality is to be provided; it is not something that a non-Dutch speaking lecturer engaged in an international field of research can learn in a couple of years.

- **The proposed measures will harm the international reputation of Dutch higher education and research.** The Netherlands' leading position in scientific research is very closely intertwined with international cooperation and the attracting of talent. It is already noticeable that research and education partners from other countries are looking at our system with a distrustful eye because of the bill. By way of comparison: A few years ago, Denmark introduced a crude cap on foreign-language academic education and has already had to set up special programmes to continue to attract international talent, including for sectors experiencing shortages.

5. The universities propose the following: sectoral control over the language of instruction and an additional focus on improving proficiency in the Dutch language among students and staff.

The universities call for scrapping non-Dutch-taught education assessment from the bill. The bill clarifies - to a limited extent - when a degree programme may be taught in a language other than Dutch. On that basis, universities can create their own language policy and change the language in which the degree programme is taught where necessary. Furthermore, the sector is currently discussing how universities can jointly manage the total degree programme offering, including in terms of the language in which programmes are taught. The line set out in the memorandum is in principle based on the sector being in control and only proceeding up the escalation ladder to statutory measures at a later stage. The fact that the bill makes it mandatory for all Bachelor's programmes to complete the non-Dutch-taught education efficiency assessment within six months of the bill entering into force is not consistent with that line. There will not be enough time and space for self-direction. In addition, it is unclear how the assessment of the efficiency of non-Dutch-taught Bachelor's programmes will fit in with the new Regulation on Macro-efficient Provision of Degree Programmes (*Regeling macrodoelmatig opleidingsaanbod hoger onderwijs*) and the institutions' management of operations in this context. For example, in terms of the process that the UNL's Education and Research Steering Group (SOO) is setting up in relation to the macro-efficient provision of programmes for new and existing programmes and the expert group/advisory committee providing support on this.

Were this test to be introduced, it should be based not only on efficiency but also on quality. In addition, a clearer definition is required of the applicable criteria and when a degree programme meets them. A provision stating that institutions will be heard by the advisory body before a recommendation is issued to the Minister should also be included.

Dutch language education of substance is necessary and important. Universities are prepared to make extra efforts to achieve this. International students with Dutch language skills can participate in education that focuses on establishing ties with society. It can also help to increase the retention rate. That is why universities are keen to give a strong boost to extracurricular Dutch language education for international students. It is important that Dutch students can express themselves clearly in their own language. Universities will therefore ensure that Dutch students can bring improve and maintain their command of academic Dutch, even if they are taking an English-taught Bachelor's programme. To this end, free modules will be available for every student.

Universities will encourage students to take them up. This is in line with a longer-term effort to improve command of the language - including for lecturers, which UNL and Netherlands Association of Universities of Applied Sciences (VH) formulated in the internationalisation agenda in 2018.

To avoid debates about when a degree programme qualifies as a non-Dutch-taught programme, and to be able to continue to offer students tailored programmes, the universities propose to define a non-Dutch-taught programme as one where students do not have the option to attain at least two-thirds of the total ECTS for the programme in Dutch. In other words, a Dutch-language programme guarantees the student that he or she can take at least two-thirds of the programme in Dutch. This could mean that students take more than one-third of the courses in English; because this is appropriate for their subsequent studies, for example.

What constitutes an English-language unit of study is yet to be determined and detailed in a ministerial order. We are calling for a restrictive interpretation here: only units of study that are part of the compulsory curriculum should be included, but not minors, electives, or components provided in conjunction with foreign degree programmes.

The universities again ask for the proposed measures to be reconsidered. They want to see more attention paid to maintaining the quality of education, as well as to the students' points of view, the feasibility of implementing the proposed measures, and differences between universities and regions. The importance of customisation was discussed at length in the run-up to this legislative process, and this bill does not provide sufficient scope for it. The objectives pursued and the means chosen are not balanced in this bill and that is putting the high quality of education and research at Dutch universities at risk.

Appendix: Comments regarding the Explanatory Memorandum (*Memorie van Toelichting*) and proposed amendments of specific Section of the Higher Education and Research Act (WHW)

- It is stated in the Explanatory Memorandum that there is a best efforts' obligation regarding the promotion of language skills, i.e. not an obligation to achieve a result as regards the level to be attained. However, the Explanatory Memorandum also states that if the government concludes that insufficient results are being achieved in terms of promoting Dutch language skills, it can set more detailed rules for language policy by means of an order in council. It is also stated on page 33 that the level of command of a language will be included in the accreditation cycle of a degree programme. It seems, then, that via these circuitous routes there is in fact an obligation to achieve a result.
- Section 6.2(2) and Section 6.3(1): According to the wording, a degree programme is not a Dutch-taught programme where more than one-third of the total number of ECTS is provided in a language other than Dutch. There seems to be no distinction between a programme and a pathway within it. It is unclear whether the programme is regarded as being an English-language programme in its entirety if one or more pathways in it are taught in English. Does one-third of the total number of pathways apply here, too?
- Sections 6.3(6) and 6.5a(2) state that if consent to teach in a language other than Dutch is not given or is withdrawn, Section 5.21(1), (2) and (3) must be complied with. Section 5.21(3) states, in summary, that students shall be given a period amounting to the remainder of the set length of the programme for those students, plus one year, to complete their studies. The following is stated on page 30 of the explanatory notes to the Act: 'If consent to teach in a language other than Dutch is refused or withdrawn, the Minister of Education, Culture and Science will set a date by which the degree programme or pathway being taught in a language other than Dutch must be converted to a Dutch-taught programme or course. Institutions will be given a reasonable period to effect the conversion. A period of two years is under consideration.' How compatible is that two-year period with Section 5:21?
- Section 6.3(5): if consent to teach in a language other than Dutch is refused or withdrawn, this will mean an end to their studies for international students. The proposed period of two years for terminating a programme is unrealistic and contrary to Section 7.3(6) of the WHW.
- Section 6.3(6): the immediate measure disallowing the provision of a programme is disproportionate, unprecedented and impracticable, having regard to the consequences for students, staff and systems.
- Section 6.5a(1): According to this Section of the Act, the Minister can decide to withdraw consent already granted to teach a programme in a language other than Dutch if the requirement referred to in Section 7.2(3)(b) (the efficiency criteria) is no longer met. Such a substantial tool requires very clear criteria from the point of view of legal certainty, given the impact on universities and their staff if a decision is made to withdraw consent for a programme to be taught in a language other than Dutch.
- Section 6.5a(4) should be amended to read (the underlined section should be added): Our Minister shall state in the decision referred to in the first and second paragraphs, with due observance of a reasonable period for the institution's executive board, the date from which the non-Dutch-taught programme or pathway may no longer be provided or the date from which the number of students in the propaedeutic phase or, if that phase has not been established, the first period involving a workload of 60 credits from the non-Dutch-taught programme or pathway will be capped.
- Although it is in line with and arises from a careful decision-making process, nowhere is it stated that the Higher Education Efficiency Committee (CDHO) will give a hearing to the university or universities concerned before preparing a recommendation for the Minister concerning the efficiency of non-Dutch-taught programmes. The CDHO's recommendations are not optional and the Minister has a strengthened obligation to state reasons if he departs from one. Having regard to the weight given to

the CDHO's recommendations, it would be as well to lay down a provision stating that the university or universities involved will be given a hearing by the CDHO. In some cases, it is obvious that educational institutions have been allowed to express their views, but in other cases, for example, where the Minister requests a 'one-off (thematic) recommendation, it is important to lay down a requirement that the institution concerned be given a hearing. The following provision should therefore be added to Sections 6.2(4), 6.3(3) and 6.5a(3): 'The advisory committee shall hear the executive board of the institution concerned before making a recommendation.'

- Section 6.13: the last part of the sentence where x is added ('for which language consent shall be granted') suggests that consent is in fact given for the language concerned. Although that is the logical consequence (owing to the language-efficiency test), this is not what is stated in the Section of the Act concerning an application for the Minister's consent. The Sections state that a positive assessment shall (only) results in consent to provide a non-Dutch-taught programme/pathway. How do these Sections relate to each other?
- Section 7.2: It is unclear which framework applies to the test for a 'non-Dutch-taught programme'. Does this follow from the ministerial order that is yet to be drawn up, the policy rule based on Section 6.2(13) or Section 7.2(3) of the WHW?
- Section 7.2(3). The efficiency test should be broader: the quality of the education, the international labour market, the content of the programme and importance of the region in a broad sense (the provisions concerning sectors with high rates of unfilled vacancies and regions experiencing population decline are too narrow) are also important.
- Section 7.2a(1b) (inter alia): There are no definitions for 'Dutch-speaking' and 'non-Dutch-speaking' students. It is also unclear how those characteristics are recorded and accounted for. How will be the target groups defined? Will a language test be administered? Will nationality be the determining factor?
- Section 7.2a(1c): Instead of language skills and their development, this Section, unlike Section 1.3.6, is not about promoting the language skills of different student groups, but rather a *target level of language proficiency*. These are two different things, leaving aside the fact that it will be very difficult for institutions and degree programmes to set their own targets for this. It is important that the distinction between language skills and a command of the language remains clear.
- Section 7.11(2): The target group of the language measure for Master's students is unclear: the Explanatory Memorandum mentions 'every student on a Master's programme' whereas the bill refers to 'students on a non-Dutch-taught Master's programme or pathway'. Does this also include Master's students on a Dutch-taught programme? It is also unclear whether a distinction will continue to be made between one-year and two-year Master's programmes.
- Section 7.11(2): It is not specified when a student has met the best efforts obligation to log 56 hours and how the examination board will be able to establish that this is the case. A Dutch-speaking student could therefore argue that those 56 hours were already logged at secondary school or during the Bachelor's programme. A non-Dutch speaking student could argue that they were logged during a non-Dutch-taught Bachelor's programme completed in the Netherlands. The group of non-Dutch-speaking students who have not previously completed a Bachelor's programme in the Netherlands is therefore the only group for which this has any relevance.
 - The Explanatory Memorandum states, in this regard, that obtaining the Master's programme regular credits is not enough to earn a Master's degree, but rather that an extra 'tick' is required. This is a separate and undesirable arrangement. Furthermore, it appears to be contrary to the law because that 'tick' says nothing about the Master's level achieved.
- Section 7.11(2): An examination board's authority extends only to degree programmes registered with the Central Register of Higher Education Programmes (CROHO), not to contract teaching. That authority is being dissipated by giving examination boards a task in respect of extra-curricular activities,

such as issuing language proficiency certificates in the case of non-Dutch-taught Master's programmes.

- The language education hours' criterion for joint and double Bachelor's and Master's programmes is problematic. Those programmes are for the time being (probably) exempted only from the foreign-language instruction test, not from the hours' criterion. This could be resolved by including an overall exemption for those programmes as paragraph 6 of the existing Section 7.3c of the WHW: 6. The obligations included in Sections 7.11(2)(b) and 7.13(5) do not apply to a joint programme or a joint pathway provided in part by a foreign higher education institution.
- Section 7.13(5): the Education and Examination Regulations for Bachelor's programmes should state how 140 hours (five ECTS) will be spent on promoting the Dutch language⁷. Does the same not apply to Master's programmes or their Education and Examination Regulations? In other words, how is this consistent with Section 7.11 of the WHW?
- Chapter 7, Section 4 of the WHW provides that a programme as referred to in that section is a Bachelor's programme. This means that the new provisions regarding the quota (Sections 7.54b and 7.54c) in their current wording, solely and exclusively apply to Bachelor's programmes. Given the wording in the Explanatory Memorandum, it stands to reason that the new provision should also apply to Master's programmes. This will require an amendment of the description in Section 4.
- Section 7.54: the proposed inclusion of a quota for Master's programmes with the Bachelor's programmes' quota is illogical and unhelpful because it would involve a different route for decision-making and participatory decision-making from the one currently formulated for selective Master's programmes in Section 7.30b. In other words, it is stated in Section 7.30b(1) and (2) that it is for a faculty/dean to decide whether a Master's programme is selective. For degree programmes wishing to have a quota, the bill provides that decision-making and participatory decision-making will take place at institutional level.
- Section 7.54c: It would be helpful if this Section made it clear how participation bodies should be involved. Since this concerns an emergency quota, the decision-making period will be very short. What is a participation body's role in this?
- Section 9.18 contains a new right of participation, i.e. the Programme Committees' right of consent on the language in which a programme is offered. That language should be stated in the Education and Examination Regulations. Decisions on the language of tuition therefore do not rest exclusively with the programme management but will be dependent on the consent of the Programme Committee. The absence of consent could have an impact on existing degree programmes. Exactly what consequences those consequences may be is not clear. Will absence of consent mean a programme having to be offered in a different language or will it merely create a stalemate?
- Section 9.33a refers to Section 7.54a(3) and (4). We suspect that this should read Section 7.54(2) and (3).
- The University Council's right of consent with regard to the language policy as referred to in Section 7.2a has been added to Section 9.33(1) under h. University Councils are being given a right of consent on a university's language policy. The Explanatory Memorandum (p. 59) states that the participation in decision-making of representative bodies in relation to the choice of language can be organised within the central language policy. This contradicts what is stated in the bill with regard to Section 7.13(2), where a right of consent is granted to Programme Committees with regard to the education and examination regulations, which is expanded to include subsection aa, i.e. the language in which the programme is taught and in which examinations are administered. In other words, while Section 9.33 gives institutions scope to determine the route for participation in decision-making, Section 7.13 provides that this power is vested in the Programme Committee.