



EXAMINATION APPEALS BOARD

Decision of the Examination Appeals Board of Tilburg University

in the case between

X, **appellant**

and

the Dean of Tilburg Law School, **appellee**

1. Course of the proceedings

On August 31, 2017, on behalf of the appellee, the chairman of the Examination Committee of Tilburg Law School (hereinafter: "the Examination Committee") issued a negative recommendation on continuation of studies, with a rejection attached (hereinafter: "the contested decision"). The appellant filed an appeal against this.

Before handling the appeal, the Examination Appeals Board of Tilburg University (hereinafter: "the Board") invited the Examination Committee to see in consultation with the person concerned whether an amicable settlement would be possible. A settlement meeting took place. The parties did not reach an amicable settlement between them.

The chairman of the Examination Committee submitted a written defense on behalf of the Dean.

The Board handled the appeal at the hearing on November 16, 2017. The appellant was present during the hearing, assisted by study adviser X1. Y and Z appeared on behalf of the appellee.

2. Facts and circumstances

- 2.1 Appellant has been enrolled in the Bachelor's Degree program "Global Law" since September 1, 2015.
- 2.2 At the end of his first year of enrollment, the appellant had obtained only 36 ECTS. That would have led to a negative recommendation on continuation of studies. Owing to personal circumstances of the appellant, the appellee postponed the issuance of a recommendation on

continuation of studies, on condition that the appellant obtained at least 18 ECTS in the academic year 2016-2017.

2.3 In the academic year 2016-2017, the appellant obtained 12 ECTS.

3. Viewpoints of the appellant

3.1 The appellant disagrees with the negative recommendation issued on the continuation of his studies, given his special personal circumstances.

3.2 These personal circumstances consist of, besides special personal problems, also of the fact that he has spent a lot of time on his side job and as a member and vice chairman of a committee/chamber of the student association Magister JFT.

3.3 The appellant did not report these circumstances to the student counselor or study adviser in time, because he hardly knew these persons and therefore did not want to entrust his personal problems to them. Afterwards, the appellant regretted not having reported his circumstances earlier.

3.4 The appellant states that he has the potential to complete the Bachelor's Degree program, and that he wants to use his potential to excel in the next components of his academic program.

3.5 In view of the above, the appellant does not agree with the contested decision

4. Viewpoints of the appellee/Examination Committee

4.1 The appellee states that the appellant started the Bachelor's Degree program in the academic year 2015-2016. In that year, the appellant did not obtain enough ECTS to meet the standard for a positive recommendation on continuation of studies. Because of the appellant's personal circumstances, the appellee postponed the issuance of a recommendation on continuation of studies, on condition that the appellant obtained at least 18 ECTS in the academic year 2016-2017.

4.2 In the academic year 2016-2017, by obtaining only 12 ECTS, the appellant did not meet that condition.

4.3 The appellee takes personal circumstances into consideration only if they have been reported to the study advisor or student counsellor by or on behalf of the student as soon as reasonably possible. The appellant did not report his personal circumstances and therefore the neither the study adviser nor the student counselor was able to give advice.

4.4 The appellant knew he had to obtain 18 ECTS, and nevertheless chose to work for a student association. This circumstance is at the appellant's expense.

4.5 The appellant was not able to convince the Examination Committee that special circumstances exist as referred to in Section 31 (7.1) of the Teaching and Examination Regulations for the

Bachelor's Degree program Global Law, nor that other valid reasons exist why the appellant has not obtained the required ECTS. In addition, based on his study progress to date, the appellant cannot be expected to complete his studies successfully within a reasonable time.

- 4.6 The appellee concludes that the contested decision is correct and requests the Board to declare the appeal unfounded.

5. Findings of the Board

- 5.1 Section 7.61 (2) of the Higher Education and Research Act (hereinafter: WHW) provides that appeal can be brought against a decision that is in conflict with the law. It ensues from this that review by the Board must remain limited to lawfulness criteria, such as the question whether the appellee acted with due care, or the question whether it would have to be said that the appellee could not reasonably have arrived at the contested decision

Pursuant to Section 7.8b (1) in conjunction with Section 9.15 (1) (f) of the WHW, the Dean must give each student a recommendation on the continuation of his/her studies within or outside the Bachelor's Degree program no later than at the end of his/her first year of enrollment in the propaedeutic phase of the Bachelor's Degree program.

Pursuant to Section 7.8b (3) of the WHW, a rejection can be attached to the recommendation on continuation of studies if the Dean is of the opinion that the student, with due consideration of his/her personal circumstances as referred to in Section 2.1 (1) of the Decree Implementing the WHW 2008, must be considered unsuitable for the program because his/her study results do not meet the requirements set in the Teaching and Examination Regulations.

Pursuant to Section 7.8b (6) in conjunction with Section 7.13 (2) (f) of the WHW, the Dean will lay down more detailed rules in the Teaching and Examination Regulations to implement the foregoing.

Pursuant to Section 3 (3.1) (b) of the TER, the recommendation on continuation of studies will be postponed in the event of personal circumstances.

- 5.2 It is not in dispute that the appellant obtained 12 ECTS in total in the academic year 2016-2017, and therefore did not meet the condition attached to postponement that he had to obtain 18 ECTS of the remaining program.
- 5.3 The Board finds that circumstances emerged during the hearing on the basis of which no rejection should have been attached to the recommendation on continuation of studies. The appellant had presented special personal circumstances earlier, but the Examination Committee did not take them into account under Section 7 (2) of the TER. At the hearing, the appellant's study adviser, X1, explained with substantiation what the appellant's personal circumstances were and why they were reported to her only later. In view of the case documents and the proceedings at the hearing, the Board is of the opinion that there are special personal circumstances to such an extent that the appellee could not reasonably have arrived at the contested decision.

Notwithstanding the foregoing, and therefore completely superfluously, the Board notes that, in view of the appellant's special personal circumstances, postponing the recommendation on continuation of studies under new conditions would not be unreasonable.

6. Decision

In view of the above, the Board is of the opinion that the appellee could not reasonably have arrived at the contested decision.

The Examination Appeals Board declares the appeal well-founded and directs the appellee to make a new decision within four weeks after the decision has been sent, with due observance of this decision.

Decided on November 16, 2017 by the Examination Appeals Board (CBE).

You can file an appeal against this decision within six weeks after publication of this decision at the Appeals Tribunal for Higher Education (CBHO), P.O. Box 16137, 2500 BC The Hague. For more information, see www.cbho.nl.