



EXAMINATION APPEALS BOARD

Decision of the Examination Appeals Board of Tilburg University

in the case between

- X: **"appellant X"**,
- X1,
- X2,
- X3,
- X4,
- X5,
- X6,

hereinafter referred to jointly as **appellants**,

and

the examiner of the course Finance for Pre-Master, **appellee**.

1. Course of the proceedings

On January 4, 2018 the re-examination of the course Finance for Pre-Master (hereinafter: "the re-examination") took place.

X filed a notice of appeal against the results of the examination on behalf of the appellants on January 22, 2018.

On behalf of the appellants, X supplemented the notice of appeal in an email of January 25, 2018.

The Examination Appeals Board of Tilburg University (hereinafter: "the Board") invited the examination committee of the program to consult with the persons concerned to see if an amicable settlement of the case was possible.

In consultation with appellant X, who spoke on behalf of the appellants, the examination committee put a settlement to the test. No settlement was reached.

The appellee filed a written defense.

The Board handled the appeal at the hearing on March 8, 2018. Appellant X appeared at the hearing on behalf of the appellants. The appellee informed the Board that it was unable to be present at the hearing. Y, Z and A appeared on behalf of the appellee.

2. Facts and circumstances

- 2.1 The re-examination took place on January 4, 2018. Participants had 4 hours' time to answer all examination questions. The results of the re-examination were published via Blackboard. At some time, inspection of the re-examination took place.
- 2.2 As a result of the inspection, the appellee made the following statement via Blackboard on January 23, 2018 (hereinafter: "the appellee's solution"):

"Two issues emerged in the inspection session that may affect many students:

- (1) Question 17 Part II. In order to obtain the exchange ratio you have to use the ratio PT/PA. The grading used 45/25 for this, but it should be 25/45. We decided to accept both ratios and checked all examinations. This may lead to some extra points for some students.*
- (1) There was a typo in the header of Question 15 in Part II. It stated that this question has 15 points, which should be 5 points. Although you could have checked that 15 points for this question would end up with a total of 110 points for the entire exam, a number of students were troubled by this. We decided to resolve this in the following way. We determined alternative final scores, i.e.:*
 - a. Using 5 points on a 100 point scale (as was done already);*
 - b. Using 3 times this score on a scale of 110 points.*

Your final score was the maximum of A and B. Therefore no student received a lower score, but some have a higher score.

These adjustments have been communicated to the Examination Bureau and will be included in your personal records."

3. Positions of the appellants

- 3.1 In summary, the appellants assert the following on appeal.
- 3.2 The re-examination, especially the second part, was much too difficult. The multiple choice questions were tricky, required several calculation stages, and a wrong answer resulted in minus points. Two hours on average for the second part of the re-examination was not enough. A low percentage of the participants in the re-examination passed.
- 3.3 The amount of study material was overwhelming and there was too little time between the publication of the grades on the first examination opportunity on December 15, 2017, and the re-examination on January 4, 2018.
- 3.4 Question 17 of the examination contained an error, which was confirmed by the appellee.

- 3.5 Question 15 also contained an error. It was stated on the re-examination that a maximum of 15 points could be obtained for question 15, whereas it became evident during the inspection that a maximum of 5 points were awarded. Question 15 was the most difficult question of the re-examination. The appellee states that there was a typo, but that is incorrect. At the hearing, the appellants submitted a letter from the instructor, B, dated January 18, 2018, to support this argument.
- 3.6 Although the appellee thought up a solution for the errors in questions 15 and 17, this does not affect the fact that the appellants spent a disproportional amount of time on question 15, owing to which they were able to spend less time on answering the other questions. Raising the maximum score for question 15 from 5 to 15 points resulted in the maximum score also being raised from 100 to 110 points. The time to take the examination, however, remained unchanged.
- 3.7 The appellee's solution is in conflict with Article 23, paragraph 2, of the Rules and Guidelines of the Examination Committee of Tilburg School of Economics and Management 2016/2017 (hereinafter: "R&G"). It follows from Art. 23 R&G, in fact, that in the event that several tests are administered for a course, the weighting of the grades of those tests must be published no later than on or before the start of the classes. Furthermore, it is evident from the study guide that the re-examination covers the first and second part of the course equally. Raising the maximum score for question 15 resulted in the first and second parts of the course not being equally represented on the re-examination.
- 3.8 When asked, the appellant X stated at the hearing that an acceptable solution would be if the same number of points could be obtained on the first and second parts of the re-examination.

4. Positions of the appellee

- 4.1 In summary, the appellee asserts the following.
- 4.2 Principally, the appeal should be declared inadmissible because there is no question of an appeal against a decision by an examiner, but a complaint about the contents of an examination.
- 4.3 Alternatively, if and insofar as the EAB considers the appeal admissible, the appellee asserts the following. Both the first examination opportunity and the re-examination were carefully designed to assess whether the students have achieved the required learning objectives. The appellants complain about the amount of study material, but, according to the appellee's knowledge and experience, this amount is required so that students can pass the course and achieve the required level of knowledge and skills to meet the admission requirements for the Master's Degree Program. The assertion by the appellants that the re-examination was too difficult, because only a small percentage of the students passed the re-examination, is incorrect. Measured across the total number of participants in the course, the passing rate is not low. All appellants have obtained a higher final grade than they obtained for the first examination opportunity. That is another indication that the re-examination was not more difficult than the first examination opportunity.
- 4.4 The appellee does not agree with the appellants' assertion that there was not enough time to prepare for the examination. According to paragraph 3.9 of the Teaching and Examination Regulations 2017-2018 for the Pre-Master programs of TiSEM (hereinafter: "TER") the results of written tests must be published within ten workdays. As the first examination opportunity took

place on December 1, 2017, and the results were published on December 15, 2017, this is in accordance with the TER. Given that the re-examination took place on January 4, 2018, the appellants had 21 days' time to prepare.

- 4.5 The re-examination contained a typographical error. According to the re-examination, 15 points could be scored for question 15, whereas this should have been 5 points. To the advantage of the students, two alternative scores were calculated in accordance with ground 2.2. As every student had obtained the highest score of (a) or (b), no student was disadvantaged by the typo.
- 4.6 Raising the maximum score for question 15 from 5 to 15 points did not, as the appellants argue, require more time to be given, because the text and contents of the question did not change. Four hours' time was reserved for the re-examination and adjustment of the maximum score did not in itself result in more difficult questions. In view of this, the grading was completely in accordance with the R&G.

5. Findings of the Board

- 5.1 Insofar as the appellee has taken the position that no appeal can be brought against the contents of an examination, the Board finds as follows. Section 7.61 subsection 2 of the Higher Education and Research Act (hereinafter: WHW) provides that appeal can be brought on the ground that a decision is in conflict with the law. It follows from this that review by the Board must be limited to lawfulness criteria, such as the question whether the appellee exercised the necessary care in the examination procedure followed. It follows from this that the Board cannot proceed to assess the contents of the examination, or to assess the appellant's knowledge and ability. The Board can only assess whether there was carelessness in the examination procedure. The Board does indeed consider the appeal of the appellants admissible in so far as they rely on the carelessness or irregularities in the procedure.
- 5.2 In view of the foregoing, the Board cannot form an opinion on the argument by the appellants that the examination was too difficult and that 4 hours was too little time to take the examination.
- 5.3 In so far as the appellants meant in their reference to the pass rate that the examination was faulty, we cannot concur with this. Regardless of whether in this case there was or was not a low pass rate, the Board is of the opinion that a low pass rate does not necessarily mean that an examination was compiled in a faulty manner.
- 5.4 The appellants' argument that they had too little time to study for the re-examination cannot result in declaring the appeal well-founded. The Board establishes on the basis of the study guide cited by the appellants that the study material and examination dates were known at the start of the semester. The Board establishes as well that the results of the first examination opportunity were published within 10 workdays in accordance with the TER.
- 5.5 Insofar as the appellants argue that the appellee did not make a typo, but that he meant that a maximum of 15 points could be obtained for question 15, the Board cannot conclude this from the letter of January 18, 2018 submitted at the hearing, nor from the other documents. The Board points out that if 15 points should have to be awarded to question 15, the total number of points would end up at 110 instead of the announced 100 points.
- 5.6 *The Board establishes that two errors were made in the re-examination, in question 15 and question 17 of the second part of the re-examination. X explained during the oral hearing that on inspection, she discovered that the errors were made and drew the examiner's attention to this.*

Thereupon, the appellee attempted to solve these errors so that students would not be put at a disadvantage by them. The Board understands that the students are indignant about the errors made, and that they have lost their trust in a justified and correct grading, even though the appellee has tried to accommodate the students by finding a solution. The Board is of the opinion that such errors may not be made in a test. The appellee would do well in the future to pay more attention to compiling and checking assignments in examinations.

- 5.7 The appellants have asserted that they had spent a disproportional amount of examination time on question 15, as a result of which they were able to spend less time on answering the other questions. They feel misled by the wrong statement of the number of points to be obtained, as the Board understands, owing to which they spent less time on the other questions than on question 15. The Board understands that students make strategic choices when taking an examination, as the appellants have asserted. It is annoying that this choice was influenced by an error by the examiner, but according to the Board, this does not mean that there has been such great carelessness that the appeal should be declared well founded for that reason. In the opinion of the Board, not the maximum points to be obtained, but the contents of the question determines the duration of the answer. Moreover, the appellee tried to accommodate the students by adjusting the grading where students would receive a higher grade if a maximum of 15 points were awarded for question 15.
- 5.8 The appellants object with reasons to the appellee's solution for question 15. The Board must examine whether the appellee corrected the error in question 15 properly and carefully.
- 5.9 Article 23, paragraph 2 of the R&G provides that in a course where several tests are administered, the weighting of the grades for those tests must be published at or prior to the start of the classes. The following is provided in the study guide:

"The resit exam (4 hours) covers BOTH the first and second part of the course equally and counts for 70% (together with the grades of the research assignments that remain valid)".

- 5.10 Insofar as the appellants argue that the appellee's solution is in conflict with Article 23 R&G, we cannot concur with this. After all, the weighting of the separate tests has not changed.
- 5.11 The Board establishes that the study guide stipulates that the re-examination must cover the first and second parts of the course equally. The Board establishes next that the appellee's solution for question 15, option a., is in accordance with the study guide. The Board establishes that the appellee offered option b. in addition as an additional concession. Furthermore, the Board establishes that option b. leads to the fact that a maximum of 50 points can be obtained for the examination questions relating to the first part of the course, and for the examination questions relating to the second part of the course, a maximum of 60 points can be obtained. This solution is contrary to what the appellee had stated in advance in the study guide. The question is whether this conflict in using option B should lead to a well-founded appeal.
- 5.12 In this context, the Board considers it important that this solution is only applied if the alternative solution would result in students obtaining a higher grade. Thus, there has only been a deviation from the announced method of grading if this is in the student's interest. According to the appellee, this was the case for some students, but not for the appellant X. Her grade would not have been raised by grading according to option B. According to the Board, although option B deviates from the grading method included in the study guide, this does not result in the appeal being declared well-founded on this basis.

5.13 At the hearing, the appellant X put forth that too few points were awarded to her answer to a certain examination question, and that during the inspection it was decided yet to award an additional point. At the hearing, however, it did not become clear whether that additional point had already been included in the determination of the results, as the appellee has demonstrated. The appellee has promised to examine whether this is the case, and to adjust the results if necessary. If this is not the case, the appellee will still include this in determining the results for X's examination, separately from this appeal.

6. Decision

The Examination Appeals Board declares the appeal unfounded.

Decided on March 8, 2018 by the Examination Appeals Board.

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