



CBE Z22003271

BSA

DECISION

in the matter of A., hereinafter also referred to as the Appellant,

and

the Board of the University of Groningen, hereinafter also referred to as the Defence,

concerning the Defence's decision of 29 July 2022

I. Description of the disputed decision

The Defence's decision of 29 July 2022 giving a negative binding study advice (BSA) for the Bachelor's degree program in International and European Law.

II. The hearing

The appeal was heard in an open session on 8 September 2022, where the Appellant appeared by video link. The Defence appeared in person represented by V., member of the BSA committee of the Faculty of Law.

III. Origin and course of the proceedings

The Appellant lodged an appeal via the Central Portal for the Legal Protection of Student Rights (CLRS) on 29 July 2022 against the Board's decision of 29 July 2022, in which the Appellant was given a negative binding study advice. A settlement meeting was held on 17 August 2022. However, a settlement was not reached, after which the appeal was dealt with by the Board at a session on 8 September 2022.

IV. The parties' positions

In support of his appeal, the **Appellant** stated the following. In November 2021, the Appellant started having physical and mental problems. These problems prevented the Appellant from performing optimally for the rest of the academic year and also hindered him in his life alongside his studies. In February 2022, he also had the coronavirus. The Appellant suffered from residual symptoms for three months.

In March 2022, the Appellant went to India to undergo medical tests and to be with his family. As a result, he missed block 2a. He had previously missed block 1b due to medical circumstances.

At the hearing, the Appellant indicated that he informed the study advisor of his personal circumstances in May 2022.

Fortunately, the Appellant is now doing better, and he is highly motivated to continue his studies.

The **Defence** indicates that the disputed decision was taken on the correct grounds. The BSA standard for the Appellant as a first-year student is 45 ECTS. In the academic year 2021-2022, the Appellant obtained a total of 10 ECTS. The average mark of the twelve examinations sat by the Appellant is 3.1. The two course-units that the Appellant did pass have a very high pass rate. The Appellant could also have followed the classes online from India.

During his registration, the Appellant did not have any contact with his study advisor about his special circumstances until 11 May 2022. This was far too late, considering that his problems started as early as November 2021. In the correspondence on the BSA, it was also pointed out to the Appellant that he should contact the study advisor immediately if there were any problems. The study advisor could have helped or advised him to deregister early to avoid a negative BSA.



The Defence acknowledges that these were very special circumstances for the Appellant. As explained, they were reported far too late. The medical tests submitted, show that the Appellant mainly experienced mental problems in the academic year 2021-2022. However, he did not seek help for this. In view of the above, there is insufficient confidence that the Appellant will be able to successfully continue his studies in the 2022-2023 academic year. Finally, the Defence requests that the Appellant's appeal be declared unfounded.

V. Review

The Board establishes that the appeal is lodged against the decision of 29 July 2022, in which the Appellant was given a negative binding study advice. In accordance with Article 7.61.2 of the Higher Education and Research Act (WHW), the Board must assess whether the disputed decision is lawful.

The Board considers the following in this regard. Pursuant to Article 7.8b.3 of the WHW, a negative binding study advice can only entail a rejection if the student – taking into account his personal circumstances – must be considered unsuitable for the degree programme because his study results do not meet the requirements which the Board has determined in this regard. The board of the institution decides whether the negative advice entails a rejection. This advice can be postponed if it cannot be determined whether a student is suitable for the degree programme after the first academic year. Pursuant to Article 7.8b.7 of the WHW, an Order of Council determines which personal circumstances, as referred to in Article 7.8b.3, the board of the institution must take into account in its assessment. These circumstances are set out in the WHW Implementation Decree. The personal circumstances are set out in an exhaustive list in Article 2.1.1 of the WHW Implementation Decree. These are illness of the person in question, physical, sensory or other functional disorders of the person in question, pregnancy of the person in question, special family circumstances, membership of the university council or faculty council, and membership of the board of a student organization of a certain size with full legal competence.

Pursuant to Article 7.8b.6 of the WHW, the board of the institution must set out more detailed rules, at least covering study results and the provisions offered. The University of Groningen rules are set out in the BSA Manual.

A decision with regard to a binding (negative) study advice must always take into account the purpose of the study advice: to help students find a degree programme that truly suits them as quickly as possible. The BSA System is part of the orientation and referral function of the propaedeutic phase and demands a process of self-selection on the part of students under the supervision and guidance of the institution. A study advice is negative and binding if a student's study results do not satisfy the requirements defined by the University of Groningen.

For the propaedeutic phase of the Bachelor's degree programme in International and European Law, the requirements, as referred to in Article 7.8b of the WHW, state that the Appellant must have obtained at least 45 ECTS credit points by the end of his second year of study. The Appellant obtained 10 ECTS in the academic year 2021-2022. In summary, the Appellant argues that medical circumstances prevented him from being able to follow his studies properly in the past academic year. In addition, the Appellant argues that he is now doing better and that he would like to continue his studies.

The Board of Appeal concurs with the Defence's claim that it is insufficiently confident that the Appellant will be able to successfully continue the degree programme in International and European Law in the academic year 2022-2023. A consideration here is that the appellant did not report his special circumstances to the student advisor until 11 May 2021 when, under the BSA regulations, this should have been done much earlier as his problems were hindering him as early as November 2021. At the hearing, the Appellant indicated that the medical problems were mainly mental. It was up to the Appellant to seek help for this. In addition, the Board believes that it would also have been possible to follow classes online from India to make every effort to comply with the BSA standard.

The Appellant has argued that he believes he is doing better. The Appellant's motivation to continue his studies and his reported improvement in his mental state can be referred to as positive, but in the Board's view, this is not sufficient justification for reversing the disputed



decision. In view of the above, the Board finds that the Defence reached the disputed decision on proper grounds.

VI. Decision

The Board of Appeal for Examinations declares the Appellant's appeal unfounded.

Thus established on 21 September 2022 by Dr E. van Wolde, chair, Prof. Dr D. van Ravenzwaaij and M. Schunselaar, members, in the presence of M.E.A. Donkersloot, secretary.

Chair

Secretary

In accordance with the General Administrative Law Act and Article 7.66 of the Higher Education and Research Act (WHW – Wet op het Hoger Onderwijs en Wetenschappelijke Onderzoek), interested parties have the right to appeal against this decision to the national Higher Education Appeals Tribunal (CBHO – College van Beroep voor het Hoger Onderwijs), P.O Box 16137, 2500 BC The Hague within six weeks of the decision being sent to them.