



CBE, PO box 80125, 3508 TC Utrecht

Examination Appeals Board

ex article 7.60 of the Higher Education Act

Visiting address

Heidelberglaan 8, Utrecht

DECISION

Our reference CBE/K21 09 014
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Date 24 November 2021
subject appeal [appellant]

The Examination Appeals Board at Utrecht University (hereinafter referred to as: the Board) has made the following decision on the appeal by:

[appellant], appellant,

versus

[defendant], defendant.

I. Origin and course of the proceedings

The appellant lodged an appeal on 8 September 2021 against the defendant's decision of 1 September 2021 not to honor her application to the Master's programme Art History. The appeal was sent to the defendant on 9 September 2021. On 20 September 2021 the International Student Admissions, on behalf of the defendant, responded by explaining the decision, but a settlement could not be achieved. On 22 September 2021 the appellant responded and the defendant answered that email. The defendant called the appellant several times but could not get hold of the appellant. On 30 September and 6 October 2021, the Board asked about the current situation and on 14 October 2021 asked for a statement of defence again and received it from the defendant on 18 October 2021. The appeal was handled at the hearing of the Examination Appeals Board at Utrecht University on 4 November 2021. The appellant appeared in person; defendant was represented by [].



II. Grounds

The defendant decided that the appellant's application for the Master's programme Art History would not be honored, because application was still incomplete after the final deadline.

The positions of both parties

The appellant stated the following in her appeal and during the hearing.

She stated that she thought that there was a misunderstanding on the scheduling or proceedings because she emailed on 13 August 2021 and did not receive an answer. In her email of 22 September 2021 the appellant explained that she felt sorry for the missing documents but she was wondering if those extra paperwork, namely, language proficiency tests, bachelor's diploma and its Nuffic certificate were really needed. She took a TOEFL test with a score of 575 in 2005 before attending a MBA course but did not keep the test record, and the program she took was taught in English. CET is the top authorized English proficiency test by the Ministry of Higher Education in her country, the CET6 she obtained is the equivalent of postgraduate level in terms of language proficiency. It's also the evidence for her Bachelor's diploma, since it is not possible to take CET tests if you're not an undergraduate and graduate student. Additionally, without the authenticity of her Bachelor's degree and English proficiency certificate at that time in 2001, she would not have been able to go through the admission process of MBA in Switzerland. Nuffic is specially for English proficiency certificate and residence permit application, and only mandatory for Chinese Students. By the time she started the application at the end of March this year, she could not log in to start the application without a DigiD. The documents submitted, were all that she had.

Without all documents required by the online application system, she was not able to complete this process, because she could not go to the next step.

The appellant stated that her study of MBA in Switzerland has equipped her with a global perspective, systematic mindset, broad base of knowledge in social sciences and humanities, as well as cultural adaptiveness, cannot be overlooked or simply neglected. The academic ability and methodological skills she acquired are necessary for her to pursue further academic interest and achieve its success. This is the reason why she wrote her email on Aug 13th. At the hearing the appellant stated that she did a TOEFL test in China, but she did not bring it with her. She saw the requirements, but she thought that she would get an exemption because of the master she had done in Switzerland. She explained about the expansion of artistic skills, combined with her writing, research and organizing skills will make her a high achiever in the artistic field of her pursuit in both theoretical framework and empirical development. She emphasized her mission to engage her skills and interests in the field of sociological art. The appellant also brought to the attention the equity in education. She stated that exposing everybody to identical requirements should not come at the expense of high levels of individual performance. Criteria of eligibility should be the result of one's academic ability and potential, will and effort, rather than personal circumstances or completeness of paperwork.

Using a document to determine one's eligibility will risk a misinterpretation of one's real eligibility and deny the potential and entire initiative and activeness of the creative individual. She thinks being subject to missing documents instead of judging in real eligibility will fail the educational goals, go the opposite to its purpose thereof, equality and inclusion that are centered around our educational goals.



The defendant stated the following.

From the start of the process the appellant was supported by the International Student Admissions team in an intensive way to go through the different steps of the application, solving various technical issues on her side. The result was that the application was finally submitted several weeks after the deadline, on 27 July 2021. After checking the application, it turned out it was incomplete. The following compulsory documents were missing: Nuffic certificate that is needed for Chinese nationals, her Bachelor diploma, and the transcript. She was asked to supply these additional documents and resubmit the application. In a separate email, she was also asked to submit an acceptable English test certificate by 1 September 2021. One month later, the candidate had still not uploaded these documents, which resulted in her application being cancelled on 1 September. The issue of the three missing documents was not addressed in the email the candidate sent on 13 August, which only mentions the issue of the language certificate. In her later emails the appellant incorrectly questions whether a Nuffic certificate is needed in her case, since she is already a resident in the Netherlands and therefore, she doesn't need a visa. The Nuffic certificate, however, is mandatory for all Chinese nationals wishing to study in the Netherlands, regardless of their current residence. It is not only necessary for the entry visa, but also a condition for enrolment at a Dutch higher education institution. The purpose is to check English language proficiency, but also the authenticity of educational degrees and diplomas. For enrolment in a MA programme, a Bachelor diploma also needs to be provided, as well as the corresponding transcript of records (BA and, when applicable, MA). Even after being notified of the fact that these documents were missing, the appellant did not supply them and also never gave any explanation for not supplying these documents, before her application was finally cancelled on 1 September 2021, a full 3 months after the deadline for applications. The defendant therefore believes the appellant was given ample time, fully supported and informed throughout the process, and simply did not fulfill the basic requirements of the application procedure, despite several chances to do so.

At the hearing the defendant stated that the appellant's email of 13 August 2021 was not answered, but it does not change the fact that she did not upload several documents that are required. The Bachelor's degree and transcript is needed for several reasons, not only for authenticity, but also the level and content which needs to be assessed. The English requirement applies to everyone the same, no exemptions are made. An old Toefl test is not accepted, and the defendant told her that.

Based on the documents submitted in these proceedings and what was said during the hearing, the Board considers the following.

Education and Examination Regulations 2021-2022 of the Master's Degree Programmes within the Faculty of Humanities (EER) states the following:

"Clause 2.2 – English language requirements for holders of a foreign diploma

1. Registration for the degree programme is possible only after it has been demonstrated that the requirement of adequate command of the English language is fulfilled. Students require an English language proficiency level of C1 (according to the Common European Framework¹) for listening and reading and B2 (according to the Common European Framework) for speaking writing, which can be demonstrated by sitting one of the following tests:

- IELTS (International English Language Testing System), academic module. The minimum required IELTS score (overall band) must be: 6.5 with at least 6.0 for the component 'writing'
- TOEFL (Test of English as a Foreign Language). The minimum required TOEFL score is 93 with at least 24 reading, 22 listening, 20 speaking, 17 writing (internet-based test)
- Cambridge EFL (English as a Foreign Language) Examinations, with one of the following



certificates:

- Cambridge English Advanced (CAE). Minimum score: 176 total, 169 writing
- Cambridge English Proficiency (CPE). Minimum score: 180 total, 169 writing

Clause 2.3 – admission procedure

1. Admissions decisions are made by the programme co-ordinator(s) and are overseen and evaluated by the Admissions Committee of the Faculty of Humanities.
2. In order to determine eligibility for admission to the programme, the programme co-ordinator(s) will carefully consider and evaluate the knowledge, insights and skills of the applicant. The programme co-ordinator(s) may request experts within or outside the university to assess the applicant's knowledge, insights and skills in particular areas, in addition to a review of written documents of qualifications gained.
3. In order to determine eligibility for admission to a study programme within the programme, the programme co-ordinator(s) will check if the applicant fulfils or will fulfil the requirements referred to in art. 2.1 first and second paragraphs before the set deadline date (see programme specific part of the EER). In their evaluation programme co-ordinators will assess the applicant's core competencies set out in art. 2.1 third paragraph as well as the applicant's command of the language in which the programme is given. On this basis, the programme co-ordinator(s) will assess whether the candidate is capable of demonstrating sufficient commitment to be able to achieve the Master's degree qualification within the prescribed period.
4. 4a. The following programmes have a rolling admission between 1 October and 1 June: Applied Ethics, Applied Musicology, Contemporary Theatre, Dance and Dramaturgy, Cultural History of Modern Europe and History of Politics and Society.
4b. The following programmes have a *numerus fixus*, where admission assessments take place twice a year: Arts and Society, Conflict Studies and Human Rights, Gender Studies, Intercultural Communication, International Relations in Historical Perspective, Literature Today and New Media and Digital Culture.
5. A request to be admitted to the study programme must be submitted before 1 June (for programmes with rolling admission, see 4a) / 1 April (for programmes with *numerus fixus*, see 4b). For foreign students who need an early notification of admission, a request to be admitted to the study programme must be submitted before 1 February.
Requests submitted after this closing date will not be considered. The decision not to consider the request will point out the possibility to appeal to the Examinations Appeals Board.
6. Contrary to the provisions of paragraph 5, in special cases the Admissions Committee may handle a request submitted after these closing dates.
7. An admission decision will be made within 20 working days for programmes with rolling admission, (see 4a), and within 30 working days for programmes with *numerus fixus* (see 4b) from the date of receipt of the complete file. Admission will be granted on the condition that by the starting date of the study programme the applicant will have satisfied the knowledge and skills requirements referred to in art. 2.1., as evidenced by qualifications obtained.
8. The applicant will receive written notification whether the applicant has been admitted or not to the degree programme and a particular study programme. The possibility to appeal to the Examinations Appeals Board is indicated in this notification.
9. Concerning programmes with a *numerus fixus* (see 4b), the applicant will accept a notification of admission within ten working days of receipt. A notification of admission that has not been accepted within ten working days will expire.



On the UU website was stated the following about the procedure:

"For admission in September

We will begin accepting applications after October 1. We recommend that you apply as early as possible. The latest date by which we can receive and process your application is April 1.*

** If you would like to be considered for a Utrecht Excellence Scholarship you should submit your application for admission before February 1.*

Complete your application in time!

When applying online, you are asked to upload in a number of documents. Please submit your application and all required documents well before the latest date of application. If your file is incomplete and/or your application fee has not been paid at that time, we will be unable to consider your application.

When can you expect a decision?

After you submit your application the Admissions Office will check whether you have sent in all the documentation required and your application is indeed complete. If so, you will receive notification that your file will be evaluated by the Admissions Committee. You can expect a decision within 20 working days after you receive this notification. In December this may take a little longer because of the Christmas break.

Application procedure

The following steps will help you submit a complete application for this programme:

- 1. Check the entry requirements for this Master's programme.*
- 2. Apply in a timely manner, preferably well before the deadline; see 'When to apply'.*
- 3. Download the [Instructions for applying to a Master's programme](#).*
- 4. Go to [Studielink](#) and complete the online application.*
- 5. You will receive an email with login details for OSIRIS Online Application, [where you can upload the required documents and pay the application fee \(if applicable\)](#). In OSIRIS Online Application you can also check the status of your application.*
- 6. For applicants from China only: apply for a [Nuffic Certificate](#). [If you are conditionally accepted, you will be asked to send certified hard copies of your diploma and transcript to International Student Admissions](#) by post.*

Required documents:

During the online application process, you will be asked to submit documents that support your application to study at Utrecht University. You will find an overview of these documents below. The underlined forms can be completed on the computer:

[A scan of your diploma \(if necessary with official translations\) or Proof of anticipated degree](#)

A scan of your transcript (if necessary with official translations)

[Motivation statement Curriculum vitae / resume](#)

A scan of your official [English language test](#) report or certificate.

Passport copy

[Two letters of recommendation](#)

[Courses yet to be completed](#)

[Relevant courses](#)

Writing sample: Research paper or Bachelor's thesis (preferably written in English, but papers or theses in Dutch, German, French and Italian will be accepted)."



The Board's considerations

It should be stated first and foremost that the duties and powers of the Board do not extend to assessing or reassessing an application for a master's programme. The Board assesses whether the assessment of the defendant has been made with due care and has been sufficiently substantiated. Furthermore, the assessment is one of the discretionary powers of the Admissions Committee. This means that, in addition to the assessment given above, it will only be possible to consider if there has been a conflict with any rule of written or unwritten law.

The Board noted that the International Student Admissions (ISA) checks and assesses on behalf of the Admissions Committee whether all documents that are needed, are uploaded and authentic. The ISA stated that a Nuffic certificate, a Bachelor diploma and transcript, and also an acceptable English test certificate was not supplied by the appellant. They reminded the appellant about this on 28 July 2021, although the deadline had already past and when these documents were still not supplied on September 1st, they decided not to honor the appellant's application. The appellant argued that she sent an email on 13 August 2021, which was not answered, and therefore feels that it is not her fault that she was late. Although the Board agrees that the defendant should have answered the email, the Board is of the opinion that this is not enough reason for the conclusion that the decision cannot be upheld. The rules are clearly stated on the website where all documents are mentioned with further explanation. The appellant acknowledged at the hearing that she knew about the requirements, but she had no access to her Bachelor's degree in China. Furthermore, she felt that her Master diploma from a Swiss university would be enough, also because of her working and residency circumstances. The Board considers that in the statement of defence and during the hearing, the defendant has sufficiently substantiated the decision by explaining why these documents are all necessary and it can therefore be concluded that the decision was made with due care. In none of her emails prior to the decision, the appellant mentioned her problems with receiving the Bachelor's degree. She merely suggested that for several reasons she could be exempted from the English test requirement and that a CET6 certificate, in her opinion, would be a good replacement for a Nuffic certificate. The information on the website however, indicates that a Nuffic certificate is not only an assessment of English proficiency, but also of the authenticity of educational degrees and diplomas. So even if she would have received an answer about the English test, for which according to the defendant no exceptions are made, then she would still have been too late with submitting the Bachelor's degree and transcript and she still would have needed to submit a Nuffic certificate. During the appeal procedure the appellant stated for the first time that in her opinion a CET6 certificate indirectly also could be proof of a Bachelor's degree. The appellant should have known that the deadline had already past and could have taken more action after 28 July 2021 to make sure that she was in time with supplying the documents or getting exemptions and also not assuming that such indirect proof would do.

The arguments put forward by the appellant in her appeal have not been sufficient to persuade the Board to take a different view.

This leads to the conclusion that the appeal should be considered unfounded.



The Board decides as follows.

III . Decision

The Board

- I. Finds the appellant's appeal unfounded.
- II. Requires that copies of this decision be sent to the parties, to the Board of Utrecht University, International Student Admissions and the management of the faculty of Humanities and made available to interested parties (anonymous version).

Thus decided in Utrecht on 4 November 2021 by Dr U.R.M.T. de Vries LLM, chair, Dr B.M. Verdel, Dr G. de Krom, Dr C. Pafort-Overduin, P. Chaudary, members, in presence of X.L. Westenburg LLB, secretary and made know to the parties involved on 24 November 2021.

X.L. Westenburg LLB, secretary

Dr U.R.M.T. de Vries LLM, chair

Any party whose interests are directly affected by this decision may submit an appeal to the Appeals Tribunal for Higher Education, P.O. Box 16137, 2500 BC Den Haag (www.cbho.nl) for a period of six weeks after the day on which this decision was announced. The appeal should be written in Dutch. There is a registry fee involved.