

**CBE Z22003419****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 programme in Economics and Business Economics.

**II. The hearing**

The appeal was heard in an open session on 8 September 2022, where the Appellant appeared in person. The Defence appeared in person, represented by V., Director of Education, and W., Chair of the BSA committee of the Faculty of Economics and Business.

**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 10 August 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 18 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. At the start of the 2021-2022 academic year, the Appellant encountered mental problems. In addition to this, his uncle passed away. His depression made it impossible for him to function normally. He had also struggled with this in the past, and received psychological help at the time, which helped him recover. Unfortunately, for financial reasons, it was not possible for the Appellant to immediately seek psychological help during the past academic year. The Appellant did not receive psychological help and medication until late in the academic year in Italy, after which he started feeling better. The Appellant wishes to continue his therapy and his studies in the academic year 2022-2023 and is hopeful that he can pursue his studies successfully.

At the hearing, the Appellant indicated that he informed the study advisor of his personal circumstances in October 2021. The study advisor then advised him to go to the student psychologist. However, the Appellant did not think that the four to five free sessions offered would be enough, and did not go to the student psychologist for that reason. Later he was also in contact with the programme coordinator about his problems.

The **Defence** indicates that the disputed decision was taken on the correct grounds. The Appellant started the Bachelor's degree programme in Economics and Business Economics in the 2020-2021 academic year. He obtained 20 ECTS in that year. At the end of that academic year, his BSA was postponed due to personal circumstances. The BSA standard for the Appellant as a second-year student is 45 ECTS. The Appellant obtained 0 ECTS in the academic year 2021-2022, with the highest mark obtained being a 2. He thus obtained a total of 20 ECTS in two academic years and therefore did not meet the BSA standard.

In the settlement interview, the Defence offered the Appellant the opportunity to work on his mental health during the 2022-2023 academic year and, if all goes well, to request an exemption

from the negative BSA the following year in order to be able to start earlier. The Appellant said that he does not wish to do this. In the settlement interview, the Defence also asked for a medical statement for the 2021-2022 academic year. The Appellant had only submitted medical documents for the 2020-2021 academic year. The Appellant subsequently submitted a document in Italian. However, the Defence needs an English translation. Moreover, the Appellant had previously said that he had no money for medical treatment, and later stated that he had received psychological help in Italy from the spring. This is remarkable.

It was up to the Appellant to meet with the study advisor more often. The deferred BSA decision explicitly states that he must meet with the study advisor at the beginning of the academic year to make a plan. Other correspondence on the BSA also states that special circumstances must be reported immediately. All in all, the Appellant did not obtain any ECTS in the past academic year.

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 directed 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. This concerns 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 Economics and Business Economics, the requirements as referred to in Article 7.8b of the WHW state that the Appellant must have earned at least 45 ECTS credit points by the end of his second year of study. His BSA was postponed in the 2020-2021 academic year. The Appellant obtained 20 ECTS in the 2020-2021 academic year and 0 ECTS in the 2021-2022 academic year. 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.

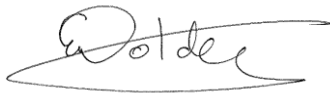
The Board of Appeal concurs with the Defence's claim that it is insufficiently confident that the Appellant will be able to successfully continue the degree programme in Economics and

Business Academics in the academic year 2022-2023. The fact that the Appellant's study results in the 2021-2022 academic year were even poorer than the 2020-2021 academic year plays a role here. The Appellant obtained 20 ECTS in his first year of study and 0 ECTS in his second year of study. It was up to the Appellant to visit the study advisor more often for guidance. The Board finds it unfortunate that the Appellant got psychological help so late in the 2021-2022 academic year. The Board notes that his claimed improvement in his health did not translate into achieving ECTS at the end of the academic year. 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. 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.**