



**CBE Z23016670**

**Admission to degree programme**

DECISION

In the case between A., hereinafter referred to as Appellant,

and

the **Admissions Team** of the University of Groningen on behalf of the Board of the Faculty of Science and Engineering, hereinafter referred to as **Defence**,

regarding the decision taken by Defence on 17 May 2023.

### **I. Description of the disputed decision**

The decision taken by Defence on 17 May 2023, in which Appellant was informed that his application for admission to the Bachelor's degree programme in Applied Physics would not be considered any further because he had not completed his application in the Online Application System (OAS) by the deadline of 7 May 2023.

### **II. The hearing**

The appeal was heard in open court on 13 July 2023, where Appellant appeared via a video link. Defence appeared, represented by V., admissions officer.

### **III. Origin and course of the proceedings**

Appellant submitted a request to be admitted to the Bachelor's degree programme in Applied Physics. His application was not considered any further in a decision dated 17 May 2023 because he had not uploaded all of the required documents to the OAS by the deadline of 7 May 2023. On 22 May 2023, Appellant lodged an appeal with the Board of Appeal for Examinations via the CLRS. No settlement meeting was held, but Defence sent Appellant a written explanation of the disputed decision on 21 June 2023. Appellant expressed his desire to continue the appeal procedure, after which the appeal was heard on 13 July 2023.

### **IV. The parties' positions**

The Appellant's position, as set out in the appeal and further explained at the hearing, can be summarized as follows. Appellant claims that he has submitted all the required documents on time. Defence requested his American high school diploma. Appellant claims that he has lived in Spain, Ireland, and the United States during his secondary school years, and has attended secondary school in three different educational systems. As a result, appellant has not met the requirements to receive an American high school diploma, according to the Northside Independent School District. At the hearing, Appellant emphasized that, in these cases, the Spanish Ministry of Education gives out an equivalency certificate of the Spanish *Título de Bachiller*. Appellant would gain admission to a Spanish university with this equivalency statement. Appellant uploaded this certificate in time and does not see why Defence cannot accept the document in the framework of his admission.

Appellant is convinced that his previous education is more than sufficient for admission to the Bachelor's programme in Applied Physics, which is why he requests to be admitted to this degree programme.

The **Defence's** position, as the procedural documents and the points raised at the hearing made clear, can be summarized as follows. Admission to the Bachelor's degree programme in Applied Physics closed on 1 May 2023. This deadline had been widely communicated by the UG via various channels.

Appellant registered himself for the Bachelor's degree programme in Applied Physics in Studielink on 9 April 2023. He uploaded a number of documents on 1 May 2023. On the same



day, he received an email in which he was offered an extended deadline of 7 May 2023, because his registration had not been completed yet. Appellant was informed of the consequences if he would fail to meet the deadline of 7 May 2023. His request would then not be considered any further. On 17 May 2023, Defence processed Appellant's file and found that not all documents required for admission had been uploaded. As a result, his request for admission was no longer considered.

Defence has taken note of the evidence of the Spanish curriculum. The fact that the Spanish Ministry of Education considers the Appellant's American high school diploma equal to the Spanish curriculum (*Bachiller*) does not mean Defence should share this point of view. After all, the submitted statement is not a diploma. The Appellant's file contains an overview of the education followed by him on which the statement issued in Spain was based. This is not a completed qualification. The followed education is not equal to the Dutch pre-university (vwo) diploma. Defence bases its diploma evaluation on the sources Naric and Nuffic. In order to consult these sources, Defence requested all upper secondary school transcripts of Appellant. Appellant did not submit these documents. Finally, Defence asked for the appeal to be declared unfounded.

After the hearing and at the request of the Board, Defence further explained their argument and emphasized that the Spanish certificate indicates that it can only be used in Spain. Defence sees no reason to deviate from this.

#### **V. Review**

The Board of Appeal points out that the content of the appeal must be tested against Article 7.61.2 of the Higher Education and Research Act (WHW). The question is whether the disputed decision was made in all fairness. A content-related assessment falls outside the scope of this assessment framework.

The Board of Appeal states that Appellant registered in Studielink for the degree programme in Applied Physics on 9 April 2023. This act can be qualified as a request to take a decision within the meaning of Article 1.3.3 of the General Administrative Law Act (Awb). In accordance with Article 4.5.1.a Awb, on 1 May 2023, Defence offered Appellant a remedy period to complete his request in OAS by submitting the documents listed by Defence by 7 May at the latest. Defence also pointed out to Appellant the consequences should he not meet the deadline of 7 May. The Board found that Defence has taken a decision regarding the Appellant's request on 17 May 2023. This decision stated that the application would not be processed any further.

Defence indicated that the Appellant's request has not been completed in OAS because a diploma was missing. As a result, his request could not be processed.

The Board concludes that Defence should have done a content-related assessment because the case here is that Appellant does not have a diploma and is therefore not able to submit this diploma. Defence should assess to which degree Appellant was able to invoke the submitted equivalency statement of the Spanish Ministry of Education at his registration. Based on the facts stated above, the Board of Appeal is of the opinion that the decision to no longer process the request cannot stand.

In the Board's opinion, Defence should assess the Appellant's request and in doing so take the following into account. First of all, Defence should investigate why the equivalency statement is not considered a diploma in countries outside of Spain. The Board points out that the certificate includes the phrase 'should be recognised in Spain'. This wording does not exclude use and application of the document outside of Spain.

Secondly, Defence will have to investigate why the Spanish equivalency statement should not be assessed as equal to the required diploma based on the Treaty of Lisbon.

Based on the facts stated above, the Board of Appeal is of the opinion that the decision to no longer process the request cannot stand. Defence should make a new decision, taking the above into account.

#### **VI. Decision**



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

Thus established on 8 August 2023 by Dr E. van Wolde, Chair, Prof. H.D. Tolsma, and F. Westerman, members, in the presence of K. Hardenberg, secretary.

Chair

Secretary

**In accordance with the General Administrative Law Act (Awb, *Algemene wet bestuursrecht*) and Article 7.66 of the Higher Education and Research Act (WHW, *Wet op het Hoger onderwijs en Wetenschappelijk onderzoek*), Appellant has the right to appeal against this decision to the Administrative Jurisdiction Division of the Council of State, P.O Box 20019, 2500 EA The Hague, within six weeks of the decision being sent.**