

## DECISION

on the petition of 10 May 2021  
of a former Master's degree programme student of Maastricht University,  
hereinafter referred to as the petitioner,  
concerning the alleged actions of Maastricht University,  
hereinafter referred to as UM.

### 1. COURSE OF THE PROCEEDINGS

On 10 May 2021, the National Commission received an extensive letter, hereinafter the petition, containing a number of alleged actions of UM. The petitioner related their petition to the Preamble and Articles 7.5 and 7.6 of the Code of Conduct Higher Education.

On 16 June 2021, the National Commission discussed the petition for the first time and decided to get to the substance of the matter to the extent that the alleged actions can be related to the provisions of the Code of Conduct. On 21 June 2021, the petitioner was informed about the procedure and the extension of the processing time of the petition because of the summer.

On 22 June 2021, the petition was submitted to the Executive Board of UM to apply the principle of hearing both sides of the matter. On behalf of UM, the Director of the legal and administrative office requested an extension of the response time by two weeks, which was granted. On 27 July, the National Commission received the written defence from the Executive Board of UM. The petitioner was asked to respond to the defence statement of UM and submitted their response on 10 August 2021.

In its meeting on 15 September 2021, National Commission discussed the petition and gave its decision.

### 2. CONTENT OF THE PETITION

From 1 September 2019 until 31 August 2020 the petitioner was enrolled for the UM Master's degree programme Globalization and Commercial Law. Although the degree programme started on 2 September 2019, the petitioner commenced their studies three months later, on 4 December 2019. The petitioner travelled to the Netherlands in the last week of validity of their authorization for temporary stay (Machtiging Voorlopig Verblijf, hereinafter MVV). The petitioner stated that their late arrival was caused by problems because of the inability to pay for the tuition fees and living expenses, that petitioner only received a notification that their MVV was granted on 30 August 2019, and as a result, that petitioner could not find living accommodations in the Netherlands. In March 2020, it became clear to the petitioner that they could not complete their studies within the academic year and that they needed to pay tuition fees again upon re-enrolment for the next academic year.

According to the petitioner, UM violated the following provisions of the Code of Conduct:

- I. **The Preamble to the Code of Conduct, paragraphs i and iii**
  - a. The petitioner stated that the UM did not achieve the objective *'to further improve and strengthen international co-operation, and the Netherlands wishes to brand itself abroad as a knowledge society together with its higher education institutions.'* The petitioner gave two arguments. The first is related to the processing of their complaint by UM concerning the selective treatment of the facts. The second is that the petitioner has not been offered a study programme as meant in the Code of Conduct.
  - b. Furthermore, the petitioner stated that UM did not achieve the objective concerning international students *'to provide clear, accessible and unambiguous information on the quality of the study programme, their position within the Dutch system of higher education, the services and provisions offered to international students, the costs of study and living, as well as the admission requirements for international students.'* According to the petitioner, the admission office of UM did not adequately inform them about the consequences of their late arrival in the Netherlands. The

petitioner also stated that before their study, they were not informed that in the case of the re-enrolment in the following academic year, tuition fees must be paid again.

## II. **Articles 7.5 and 7.6 of the Code of Conduct**

The petitioner stated that UM failed, refused or neglected to process their complaint of 14 September 2020 adequately, and the petitioner is also of the opinion that:

- The Joint Complaints Committee Inappropriate Behaviour (hereinafter: Joint Complaints Committee) made a selective assessment of the facts. The petitioner is of the opinion that this led to unfair and unjust recommendations, which were followed in full by the Executive Board of UM in their decision on the complaint.
- The Joint Complaints Committee did not take into consideration that the Faculty of Law had not offered the petitioner a study programme despite payment of the tuition fees and living expenses.
- The three staff members accused of inappropriate behaviour wrongfully stated that the reasons for the petitioner's late arrival in the Netherlands were entirely attributable to themselves.
- The Joint Complaints Committee did not take into consideration that on 4 December 2019, the petitioner was knowingly and wilfully admitted to the study programme by a staff member of UM, whereas at that time, it was clear that the petitioner could not complete the programme.
- The Joint Complaints Committee did not correctly value the admission office's email of 6 September 2019. This email message informed the petitioner that they would miss the first term of the study programme if they would not come to the Netherlands soon. The petitioner would have to catch up on this part of the study programme in the next academic year to complete their study programme. The petitioner stated that the information concerning payment of tuition fees upon re-enrolment was kept from them.
- The Joint Complaints Committee did not take into consideration that the petitioner was reregistered for the resits of examinations of the course units of which the final mark is calculated from the examination, mandatory participation in seminars, and assignments handed in. It was technically impossible for the petitioner to complete these course units only by passing a resit examination.

The petitioner demands the unconditional and immediate repayment of the tuition fees of €6900, and sanctions against three UM staff members for inappropriate actions, as well as sanctions against the Faculty of Law and UM as a whole for the improper actions of its staff members. Furthermore, the petitioner demands compensation for the expenses incurred related to the current petition procedure.

### **3. ADMISSIBILITY**

The National Commission is competent to inspect petitions concerning the relationship between the institutions of higher education listed in the register of the Code of Conduct and international students. UM is an institution of higher education and has been listed in the register of the Code of Conduct since 28 April 2006. The actions date from after the date of entry.

Petitioner is a former international student from Kenya. During their study at UM, the petitioner had a residence permit with the restriction of study. The petitioner added both a copy of their study visa and the passport to the documents.

Before submitting a petition to the National Commission, the petitioner lodged a complaint with the Complaints Service Point of the University on 14 September 2020, demanding repayment of the tuition fees and sanctioning the staff members involved. The complaint was processed by two bodies within the University. The Student Service Center handled the request for repayment of the tuition fees, and the Executive Board processed the complaint regarding the inappropriate actions on the basis of recommendations of the Joint Complaints Committee. The processing bodies responded to this on 16 November 2020 and 3 March 2021, respectively.

The National Commission is only competent to assess the actions of institutions of higher education against the provisions of the Code of Conduct. The Code of Conduct does not contain provisions regarding inappropriate or discriminatory behaviour of staff members. The National Commission therefore does not deem itself competent to assess inappropriate or discriminatory behaviour of UM staff members.

The National Commission disregards the arguments that the petitioner gave regarding the alleged violation of Articles 7.5 and 7.6 concerning inappropriate or discriminatory behaviour. The National Commission also observes that it is not competent to impose a repayment or to sanction individual staff members. To the extent that the petition regards the alleged inappropriate behaviour by three UM staff members, the petition is inadmissible.

#### **4. ASSESSMENT**

##### ***Preamble i, iii and Article 2.1c***

The considerations included in the Preamble contain objectives and best efforts obligations that the educational institutions aspire to realize by compiling and complying with the provisions of the Code of Conduct. The National Commission is of the opinion that although no immediate rights may be derived from the Preamble, it would not be in the spirit of the Code of Conduct that the actions of an educational institution run counter to the ambitions written in the Preamble.

##### ***Preamble i***

The paragraph of the Preamble cited by the petitioner expresses the educational institutes' desire to promote Dutch higher education and to strengthen collaboration. The petitioner is of the opinion that this ambition was violated since UM has not dealt with the complaint in an appropriate manner, and that the facts were selectively assessed. In addition, the petitioner stated that they had not been offered a study programme as meant in the Code of Conduct. The National Commission is of the opinion that there is no relation between the alleged violation and the arguments given by the petitioner. To this extent, the petition is unfounded.

##### ***Preamble iii and Article 2.1c***

In the third paragraph of the Preamble, the educational institutions laid down their commitment to supply international students with clear, accessible and unambiguous information about items such as study costs and living expenses, as well as the entry requirements for international students. This paragraph is further elaborated in Article 2.1c of the Code of Conduct. On the basis of Article 2.1c, UM has committed itself to provide international students with timely, reliable and easily accessible information about the entry requirements of its study programmes, including procedures for admission and enrolment and the associated expenses. In its assessment, the National Commission included this provision of its own motion.

The petitioner stated that UM violated its obligation as laid down in the Code of Conduct since UM neglected to inform them about the consequences of their late start at the study programme. Furthermore, the petitioner stated that UM had not provided them with information about the requirement to pay tuition fees upon re-enrolment. To support their point of view, the petitioner included email messages from the admission office in which they were informed that the petitioner might need to re-enrol in the following year to catch up on arrears. The email messages do not contain information about the costs associated with re-enrolment. The petitioner emphasized that if they had known this information, they probably might have made another decision about the continuation of their study programme at UM.

##### ***Consequences of the late start of the study programme***

The UM Executive Board's defence statement dated 27 July 2021 put forward that the information about the entry requirements of the Master Globalization and Commercial Law and the procedures for admission and enrolment at UM were available on the UM website prior to the petitioner's enrolment at UM. UM refers to several archived pages of its website to serve as support. In an email message of 6 September 2019, the admission office pointed out to the petitioner that the study programme already had started and that they might encounter difficulties in catching up on the arrears. In another email message, also dated 6 September 2019, the admission office pointed out that the petitioner was not yet registered for the first term and that they could not participate in this term after 23 September 2019. This meant that they had to take the course units of the first term in the following academic year (2020-2021) and that they needed to re-enrol in due course. In response to this, the petitioner asked if this meant that they must extend their stay in the Netherlands in order to catch up on the arrears. This was confirmed by email message. On 17 September 2019, the petitioner was informed that they also missed the deadline for enrolment for the second term and that they had to contact the Education Desk to arrange for their enrolment.

On 18 September 2019, the petitioner was also informed by email message about the mandatory study progress standard in relation to their residence permit. The petitioner was pointed out that they already had missed 12

out of 60 ECTS. The message also mentioned the possibility to reschedule the petitioner's enrolment to 2 February 2020. The petitioner remarked to expect to travel to the Netherlands on 23 September 2019 and disregarded the recommendations given. On 18 November 2019, the petitioner sent an email message to the admission office requesting to reschedule their enrolment to February 2020. The request was not granted because of the time needed to cancel the current application for a residence permit and submit a new application. The petitioner was advised to reschedule the enrolment to September 2020. The petitioner disregarded this recommendation and travelled to the Netherlands at the beginning of December.

The question at hand is whether the petitioner was sufficiently clear informed about the importance to travel to the Netherlands in time, and about the possible consequences of a late start of their study programme. The National Commission observes that, as the petitioner mentioned in the petition, the petitioner was not familiar with the Dutch educational system and the procedures in force. This stresses the relevance to inform prospective international students carefully and clearly about the procedures in force. The National Commission observed that on the basis of the above, UM gave timely, unambiguous information about the procedures for admission and enrolment on its website. Furthermore, the email messages show that the UM admission office more than once pointed out to the petitioner that it would be essential to travel to the Netherlands in time, both with respect to the petitioner's study progress and residence permit, and the duration of their study programme.

#### *Costs of re-enrolment*

First, the National Commission establishes that no information about the costs of re-enrolment was included in the email message to the petitioner dated 6 September 2019. The question is whether the petitioner could have taken knowledge of the fact that re-enrolment would include expenses. In its defence statement, the UM Executive Board refers to the UM website for information about tuition fees and living expenses. Under the heading of tuition fees, the website shows extensive details on the costs of the study programmes offered. The website mentions that tuition fees must be paid annually. A separate tab is devoted to *re-enrolment*. This page states that payment of tuition fees is a part of the re-enrolment procedure. The *acceptance letter* that UM sent to the petitioner on 2 September 2019 also included that the costs of the Master's programme amount to €24,300 per year. The National Commission is of the opinion that the petitioner could have taken knowledge of the expenses associated with re-enrolment on the basis of the information given to them.

The National Commission is of the opinion that UM has satisfied the duty of information it has, and that neither Preamble paragraph 1 and iii, nor Article 2.1c were violated. To this extent, the petition is unfounded.

#### **Articles 7.5 and 7.6**

The National Commission notes that the arguments of the petitioner regarding the alleged violation of Articles 7.5 and 7.6 primarily refer to how the UM Executive Board dealt with the complaint about the inappropriate behaviour of three UM staff members, on the basis of recommendations of the Joint Complaints Committee. As mentioned before, the National Commission does not deem itself competent to assess cases outside the scope of the Code of Conduct.

By signing the Code of Conduct, UM committed itself to open a complaints procedure for handling complaints in the context of the Code of Conduct. On the basis of Articles 7.5 and 7.6, the National Commission considers itself competent to assess the complaints procedure set up by UM as mentioned above, and whether the complaint lodged by the petitioner on 14 September 2020 has been dealt with in a careful manner. The petitioner is of the opinion that UM did not process their petition in agreement with Articles 7.5 and 7.6 for reasons that UM failed, refused or neglected to process their complaint carefully.

The UM Executive Board noted in its defence statement that it had dedicated an internet page to complaints in the context of the Code of Conduct. Furthermore, the Executive Board stated that the petitioner's complaint was not related to the Code of Conduct. Nevertheless, UM processed the complaint carefully so that a violation of Article 7.5 or 7.6 cannot be the case. The National Commission establishes that the petitioner lodged a complaint with the UM Complaints Service Point on 14 September 2020. The email messages presented by the petitioner show that the complaint was forwarded to the Complaints Committee of the Faculty of Law. The procedure dictates that the Dean of Faculty will decide about complaints on the basis of recommendations of the secretary of the Complaints Committee. On 2 October, the Dean of Faculty informed the petitioner that in view of the fact that the complaint concerns his own actions, he returned the complaint to the Complaints Service Point, requesting to split the complaint into two parts.

The first part that concerns the request for repayment of the tuition fees would be dealt with by the Student Service Center. Regarding the second part that concerns the inappropriate, racist behaviour of three UM staff members, the petitioner was given the choice of a) mediation by a confidential adviser, and b) lodging a formal complaint with the Commission for inappropriate behaviour. The petitioner chose the latter option. The part of the complaint concerning the claim for the refund of the tuition fees because the petitioner had not attended the study programme was dealt with by the Student Service Center as a request. The petitioner received the decision on 16 November 2020. The request was rejected, but in consultation with the Faculty of Law, and considering the extraordinary circumstances of the petitioner, it was decided to make a goodwill gesture and to refund the petitioner three months of tuition fees since they had not attended the study programme in September, October and November 2019.

The National Commission is of the opinion that splitting the petitioner's original complaint into two complaints to ensure objective handling of the complaint demonstrates a carefully set up procedure. In addition, the various UM departments involved kept the student up to date on the progress of the complaint. It could therefore not be ascertained that UM did not, or not carefully, handle the complaint. To this extent, the petition is unfounded.

## 5. RULING

The National Commission's comes to its final decision on the basis of all that has been considered above. The National Commission is of the opinion that UM acted in accordance with Preamble paragraphs i and iii, and also in accordance with Articles 7.5 and 7.6 of the Code of Conduct. The National Commission declares the petition unfounded to this extent.

The National Commission declares the petition inadmissible in all other respects.

Delivered in Utrecht on 15 September 2021,

P.M.M. Rullmann, chairperson, H. Brinksma, M.S. Menéndez, K. Penninga, F.A.M. Snijders, L.J.M. Verhofstad members, E.E.W. van den Berg, J. Bonnink, J. van der Heijden, substitute members, in the presence of J.G. van den Bosch, secretary and E.J. Wijers, researcher.

P.M.M. Rullmann  
chair

J.G. van den Bosch  
secretary

Issued on the 28<sup>th</sup> of September 2021