

Avoiding legal disputes with regard to assessment



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Centre of Expertise for Higher Education (University of Antwerp)

in collaboration with Winnok De Vos (UAntwerp, Veterinary Sciences) and the Education Department and Legal Services at UAntwerp

This tip is partly based on UAntwerp's Education and Examination Regulations (2021-2022). Certain elements in this tip may differ from the rules imposed by other higher education institutions. Moreover, almost every academic year, changes are made to the Education and Examination Regulations. It is therefore advisable to always consult the current education and examination regulations applicable to your institution.

'[...] On my exam, I scored 'excellent' on question 1, 'sufficient' on question 2, and I left question 3 blank. I spent all my time on question 2 during this exam [...] and also wrote that I skipped question 3 due to a lack of time. [...] There was no mention of how the questions were weighted exactly. [...] Afterwards, we were told that the three scores weren't added up, but that the question you scored the least on, counted the most. This wasn't mentioned on the ECTS sheet either. I would have taken a completely different approach to my exam if I had known this from the start [...].

...

Due to this unfortunate set of circumstances, it feels particularly unfair to me that I achieved a final score of only 5/20. That's why I want to appeal this score, and I hope that it can be changed to a passing grade, which I sincerely believe I deserve.'

The above is an excerpt from an appeal from a session of the Council for Disputes on Study Progress Decisions ('[Raad voor betwistingen inzake studievoortgangsbepalingen](#)'). It is just one of more than 6,000 appeals processed since the establishment of this Council in 2005. In 2020 alone, 892 judgements were made, the highest number so far. In this particular case the appeal was rejected, but it happens more and more that poor communication or an ECTS sheet with incomplete/incorrect information is successfully used as legal evidence. In 2020, 15% of the 184 appeals with regard to study progress decisions were considered justified. It is therefore essential that, as a lecturer, you communicate about your expectations and assessment methods as clearly as possible. After all, clear and complete information helps students to understand the organisation, learning objectives and evaluation methods of the course. The broad support this creates can help mitigate the perception of unfair treatment and consequently the recourse to legal means.

In this teaching tip, we will first look at the **ECTS sheet**, an official instrument that contains the essential information about the course. Then we will highlight the importance of **transparent communication** and of **tailoring the assessment to the learning outcomes** of the course. We will discuss how best to provide **feedback afterwards** and what to be mindful of when assessing an **internship**, a **master dissertation**, a **project** or a **group assignment**. To wrap things up, we will offer some **take-home messages** that bring together the most important insights of this teaching tip.



The ECTS sheet¹

ECTS is an abbreviation for [European Credit Transfer and Accumulation System](#). The ECTS sheet contains all the essential information about a course and expresses the awarded credits on an international scale.

An ECTS sheet describes which **learning outcomes** a student will have acquired after successfully completing the course. In addition to the learning outcomes and the learning content, the minimum expected **initial competences**, the **teaching and testing methods** and the **assessment criteria** used are also mentioned.

The information on the ECTS sheet is **binding** for both the lecturer and the student. It is a kind of contract, the contents of which must be observed by the **lecturer** and known to every **student**.

The ECTS sheet also serves as a basis for applying for exemptions. In order to make higher education in Europe transparent and comparable, the sheet is drawn up not only in the language of instruction, but **also in English**.

The ECTS sheet of a course should be available **at the start of the academic year** (at the latest) and should always remain accessible. Only in exceptional cases of force majeure (e.g. the COVID-19 pandemic) can changes be made to the information during the academic year.

Transparency beforehand

The lecturer who created the exam in the introductory example (the defendant) argued during the appeal that they indeed applied a non-equal weighting when marking the questions (in this case, 1:3:3) and *'[...] that there is no regulatory provision stating that the weighting of individual questions in the exam must be disclosed in advance.'*

The Council for Disputes on Study Progress Decisions did indeed find that the ECTS sheet of the course in question provided for the possibility of a different weighting if one or more objectives of the course were not sufficiently achieved.

However, the council indicated that it is desirable, for the sake of **transparency**, to indicate the weighting of the components on the exam itself (even though there is no

specific regulation requiring this) and to ensure a balanced weighting that students can estimate correctly. The latter refers to the fact that the scoring system should be proportionate to the size and difficulty of the questions.

It must be clear **what a student has to know and has to be able to do** at the time of assessment. This should not only be mentioned on the ECTS sheet, but also explicitly at the start and/or at the end of your series of lectures.

You should also provide information on aspects such as: the **relative weight** of various assessment methods (e.g. assignments throughout the year, the final written examination, oral presentations), the conditions for taking **interim results** into account, any changes in the assessment method(s) used during the **second examination session** (resit), the [pass mark for a multiple-choice examination](#), the **type of questions** that will be asked, and the **assessment criteria**.

Any exclusion criteria must always be explicitly mentioned on the ECTS sheet. These are criteria that weigh so heavily that they result in a definite failing mark. This concerns serious errors or failure to pass an essential component (such as a module or the practicals). When applying such criteria, you must be able to refer to a specific final competence that is at risk.

The information mentioned on the ECTS sheet **must not be changed** during the academic year. So be as clear and transparent as possible, but refrain from mentioning details that you might want to change later.

Tailoring the assessment to the learning outcomes

In our introductory example, the lecturer also stated *'[...] that when correcting the written examination, they applied an assessment key in which an individual's worst-answered question was given the highest weight.'* The lecturer claimed this was in accordance with the same statement on the ECTS sheet as mentioned earlier, i.e. that a different weighting is possible if one or more objectives are not sufficiently achieved.

However, this argument was not accepted by the council as it could not be sufficiently substantiated. After all, an individual's worst answer does not necessarily include

¹ Also called 'Course information' at UAntwerp.



essential learning outcomes that correspond to the minimum knowledge for the course.

In other words, according to the council, there was a mismatch here between the assessment and the predefined learning outcomes.

Always make sure that the **learning outcomes** of your course are clear and measurable. Use **active verbs** (such as *name, illustrate, assess, analyse, solve*) and be specific, both for theoretical learning content and for practical components. Focus on the essence and avoid going into detail.

Make sure that you assess all the learning outcomes of your course, regardless of the assessment method(s) used. The best way to do this is to use a **testing matrix**. This helps to ensure a representative **coverage** of the **learning content**. Make sure that **marks are distributed in a balanced fashion**, taking into account the weights of the predefined learning outcomes. You should also adjust the size of the questions accordingly.

Feedback afterwards

Students have the **right to see and discuss** their marked exam copy. You should schedule either a collective **feedback session** or a moment when individual discussion is possible. This can also be planned at the faculty level or at the study programme level. Communicate the possibilities for feedback well in advance and preferably schedule the feedback moment(s) before the deadline for appeals against marks received.

Students have the **right to obtain a copy** of their marked exam, unless you can claim intellectual property rights on the questions, such as in the case of multiple-choice questions or application-oriented questions you personally drew up. In that case, you need only provide them with a copy of their answers.

Being able to motivate the awarded **mark** in a transparent fashion is essential. It is therefore recommended (but not compulsory) to indicate on the exam how much weight each question is given. Also, always provide a **correction key and/or assessment criteria**. You can use this as basis to explain what was good and what was not so good or wrong, in a given answer.

For **oral exams**, taking **notes** is recommended, so that reconstruction of what was said is possible in case of [disputes](#) (*in Dutch*). After all, the written preparation of the

student does not necessarily represent how the actual oral examination went, as these notes served only as an aid to the student, who may have deviated from them significantly during the oral phase. In the case of a written examination with subsequent oral clarification, however, the student's written notes do count.

Internships, master dissertations and projects

Also – perhaps even more so – in the case of an internship, master dissertation or project, transparent communication and explicit tailoring of the assessment to the predefined learning outcomes is essential. As a lecturer, you should clearly describe your **expectations**, ideally as a list of criteria that correspond to the learning outcomes. Be sure to include the expected **degree of independence**.

Provide sufficient **interim feedback moments**, announce them on time via standard channels (and consistently use the same channels), and allow for space and time for students to remedy any shortcomings and to adjust their learning as needed. Give targeted, high-quality feedback in line with the expected learning outcomes and document this with specific examples.

Collect material to **motivate the awarded score**. If an internship, master dissertation or project is assessed by several people, it is best to reach a consensus on the final mark through consultation rather than simply calculating the average of the individual marks awarded.

Group assignments

Group assignments can lead to **tensions** if one or more group members take a less active role, but also if one person takes on all the work and leaves little relevant input to the others. Assessing the group assignment in such a situation is not easy.

If you want to take everyone's **individual input into account**, you can try to measure it as best as you can via an individual presentation and/or via [peer assessment](#). Check the [reliability and validity of this peer assessment](#), especially if it might make the difference between a passing or a failing mark. Peer assessment scores may be subject to bias due to subjective elements that are difficult to demonstrate. Train students in giving proper **peer feedback and/or assessments** and be careful about the weight you give their input.



Conclusion

- The basis of a good educational relationship is communication. Make sure that you communicate in a clear and timely manner, and always via the same standard channel.
- Be consistent in your education. Tailor the assessment method(s) and criteria to the predefined learning outcomes of your course, both in terms of content and weight.
- Give sufficient and correct feedback, both during the learning process and after the assessment.
- Make sure you have an accurate and up-to-date ECTS sheet. Provide any information that may be subject to change over the course of the academic year through another, non-binding document.



Want to know more?

Sources

- Karen Weis (2019). Een academiejaar in rechtsregels. Praktisch onderwijsrecht voor docenten uit het hoger onderwijs. Brussels: Politeia.
- European Commission. [European Credit Transfer and Accumulation System \(ECTS\)](#). Retrieved on 27/10/21.
- [Raad voor Betwistingen inzake Studievoortgangsbepalingen. Rapporten van zittingen](#). Retrieved on 20/10/21.
- [Raad voor Betwistingen inzake Studievoortgangsbepalingen. Jaarverslag 2020](#). Retrieved on 20/10/21.

ECHO Teaching Tips (in English)

- [Reliability of peer assessment](#) (2017)
- [Measure what you want to know](#) (2013)
- [Peer assessment](#) (2011)
- [Peer assessment: problems & solutions](#) (2013)

ECHO Teaching Tips (in Dutch)

- Themapagina [‘Toetsing’](#)
- [Judge for yourself: juridische onderwijsvragen](#) (2016)

Sources accessible only to UAntwerp staff

- The ECTS sheet / 'Course information' of a course you are responsible for can be found on your personal UAntwerp page in the section 'Education' by clicking on the name of the course concerned. The information can be changed via <https://studieinformatie.uantwerpen.be/auth/login>. The information is automatically passed on from here to the Blackboard learning environment of the course.
- Additional information and manuals regarding the ECTS sheet ('Course information') can be found on the [Pintra team site titled 'Course information'](#).
- The [UAntwerp Education and Examination Regulations](#) offer concrete guidelines for answering both content-related and practical questions regarding assessment. You can also consult the FAQs on the pages of the [Education Info Centre](#) (in Dutch, requires login). The central or faculty [Ombudspersons](#) (in Dutch, requires login) will also be happy to help. If you have any education questions of a legal nature, please contact [Legal Services](#) or JOC-adviezen&diversen@uantwerpen.be.
- ECHO publication [‘Vijftig Onderwijstips’](#) (in Dutch, requires login):
 - Tip 24: Voorkomen van meeliftende studenten bij groepsopdrachten
 - Tip 26: Studiewijzer als ondersteuning van het leerproces
 - Tip 30: Handvaten bij scriptiebegeleiding
 - Tip 41: Een objectieve correctie van open toetsvragen
 - Tip 42: Aandachtspunten bij criteria
 - Tip 45: Mondelinge toetsen objectief beoordelen
 - Tip 47: De relatie tussen leerdoelen en competenties

Centre of Expertise for
Higher Education (ECHO)

Venusstraat 35

B - 2000 Antwerp

echo@uantwerpen.be

www.uantwerpen.be/echo

