

Appeal 25-42

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COMPLAINTS BOARD OF THE EUROPEAN SCHOOLS

(1st section)

Decision of 18th of August 2025

In the case registered at the Registry of the Complaints Board under No 25/42, concerning an action brought on the 15th of July 2025 by Ms ■■■■■ and Mr ■■■■■, residing at ■■■■■, acting in their capacity as legal representatives of their son, ■■■■■, seeking the annulment of the decision of the Central Enrolment Authority of 1st of July 2025, rejecting their enrolment application for ■■■■ at the European School, Brussels I – Uccle I site.

The Complaints Board of the European Schools, 1st section, comprising

- Mr Eduardo Menéndez Rexach, President of the Complaints Board,
- Mr Mark Ronayne, member and rapporteur,
- Mr Haris Tagaras, member,

assisted by Ms. Nathalie Peigneur, Registrar, and by Mr. Thomas van de Werve d'Immerseel, legal assistant,

having regard to the written observations presented by the applicants as well as by Me Muriel Gillet, advocate at the Brussels Bar, on behalf of the European Schools,

having decided that, as permitted under Article 19 of the Rules of Procedure, the case would not be heard at a public hearing,

delivered on 18th of August 2025 the decision in respect of which the reasons and grounds and the operative part thereof appear as follows:

Main facts of the case and arguments of the appeal

1.

During the second enrolment phase for the 2025-2026 school year, the applicants applied for the enrolment of their son ██████████ in class Primary 5 of the HU language section at the European School, Brussels I – Uccle I site.

To justify their application during the second enrolment phase, they invoked a case of force majeure under Article 2.28 of the Policy on Enrolment for the 2025-2026 school year, namely that it only became clear after the deadline for the first enrolment phase had passed that ██████ was confronted by insurmountable difficulties in attempting to follow the French language curriculum in the Belgian primary school in which he is currently studying.

Article 2.28 of the Policy on Enrolment reads: *“By way of derogation from Article 2.24., applicants for enrolment will be allowed to submit their applications during the second or third phase, when the applicants are able to establish a case of force majeure on the basis of an exhaustive statement of factual elements and documentary evidence produced – otherwise it will be disregarded – when their application is submitted. A case of force majeure consists of the reality of events that are purely objective and beyond the control of the applicant or of the pupil,*

of such a nature as to unquestionably impede submission of their application during the first phase.”

2.

By its decision dated 1st July 2025, the Central Enrolment Authority rejected the enrolment application, finding that the applicants had failed to establish a case of force majeure as defined by Article 2.28. of the Enrolment Policy, consisting of a reality of events of such a nature as to unquestionably impede submission of the application during the first phase.

Consequently, the applicants' son has not been granted a place at one of the Brussels European Schools for the 2025-2026 school year.

3.

The current contentious appeal is brought against this decision under Article 67, paragraph 2, of the General Rules of the European Schools and Article 14.3 of the Enrolment Policy.

The applicants seek *“the annulment of the decision of inadmissibility and the acceptance of our son [REDACTED]’s enrolment in the [REDACTED] language section as of September 2025 ».*

The defendant asks the Complaints Board to declare the appeal admissible but unfounded and to order the applicants to pay legal costs of EUR 750.

4.

The applicants explain that their application was submitted during the second phase on grounds of force majeure precisely because the exceptional circumstances justifying their request only became fully evident after the first phase deadline of 28 January 2025.

They state that until the second semester of the academic year (2024/2025), it appeared their son could manage within the Belgian system, but it later became undeniably clear that his difficulties in following the curriculum in French were insurmountable. This is not merely a matter of preference or convenience. His teacher explicitly confirmed, in writing, that continuing in French would jeopardize both his engagement and academic development. His final school report fully corroborates this assessment.

They further argue that remaining in the Belgian system would almost certainly result in continued disengagement and a severe decline in academic performance and that transferring him to the ██████████ section is the sole viable solution to secure his educational progress and personal development.

5.

The Schools observe that ████████'s reports for the 2023-2024 school year appear to suggest that he wasn't encountering any particular difficulties being educated through French. As regards the note drawn up by a teacher at the end of May, they observe that the applicant fails to establish that the difficulties to which it refers arose suddenly following the close of the first phase and that they were of a level of gravity necessary to justify a change of teaching language. They also doubt whether such a note provides the necessary degree of objective proof.

They draw the Complaints Board's attention to previous decisions in which it found that educational difficulties, including language difficulties, could not justify a force majeure exception (23/24, 23/27, 23/33, 24/43 and 24/49). They argue that the school report for the 2024-2025 school year, lodged by the applicants with their appeal to the Complaints Board, should not be taken into consideration as it had not been included in the application to the Central Enrolment Authority. Alternatively, the Schools maintain that the difficulties in French evidenced by the report do not justify the conclusion that it is necessary to change school.

Findings of the Complaints Board

On the substance of the appeal,

6.

As the Complaints Board has clarified on numerous occasions, the right of access to the European Schools does not exempt the interested parents from complying with the strict deadlines set for submitting enrolment applications, which are particularly important in Brussels given the existence of several European Schools, covering numerous language sections and a very large number of pupils. Splitting enrolments into two phases and imposing strict deadlines for the submission of applications are essential measures for smoothly managing the Brussels European Schools and optimising the available places; they are considered as necessary, reasonable and proportionate to this purpose (see decisions 21/34, point 10, 22/33, point 5 and 23/26).

It is therefore the responsibility of the parents affected by this provision to act with due care, taking all of the necessary precautions to ensure that the

application is submitted within the deadlines (see decisions 19/32 (point 13), 20/58, 20/64, 21/34 (point 10), 22/33 (point 5) and 23/26).

7.

According to the established case law of the European Court of Justice, a situation of "*force majeure*" is characterised by the occurrence of unusual and unforeseeable circumstances, beyond the control of the party by whom it is pleaded, the consequences of which could not have been avoided even if all due care had been exercised (see, for example, Judgment of the Court of Justice of 5 February 1987, 145/85, Denkavit/Belgian State).

It is commonly accepted that force majeure is an unpredictable, unavoidable, insurmountable event beyond the control of the applicant that prevented him from fulfilling his obligation.

The elements invoked by the applicants as constituting a case of force majeure must therefore be examined within this regulatory framework.

8.

In this case, the Complaints Board notes, first, that the circumstances giving rise to the difficulties encountered by ■■■ were not beyond the control of the applicants. On his return to Belgium, the applicants chose to educate him in French in a Belgian school for the 2023-2024 and 2024-2025 school years even though they had the option of enrolling him in a European School. Also, for the 2025-2026 school year, they had the option of enrolling him in the first phase.

In addition, the risk that ■■■ might encounter difficulties reaching the required

level in French to continue in a Belgian school after September 2025 was neither unusual nor unforeseeable. Although his end of year report for the 2023-2024 school year noted his positive attitude and progress in French, it also noted some definite shortcomings regarding his written work (*“erreurs de syntaxe et de structuration de phrases”, “beaucoup de mots sont écrits en phonétique, “ses formulations et construction de phrases doivent encore gagner en cohérence”*). The risk of his encountering difficulties continuing in French existed from the beginning of the 2024-2025 school year, and therefore before the deadline for the first phase of enrolment applications for the 2025-2026 school year.

The declaration by ██████’s mother that *“in the course of the academic year, it has become clear that his French is not sufficient to continue there”* and *“it is essential that he can start in the ██████ section in September 2025”* doesn’t explain why this only became apparent after the expiry of the first enrolment phase and therefore does not meet the requirement of *“an exhaustive statement of the factual elements”* explaining the failure to meet the first phase deadline required by Article 2.28 of the Enrolment Policy.

The declaration by ██████’s teacher of the 26th of May 2025, annexed to the second phase application, whilst noting that it would be preferable to educate ██████ in ██████, does not prove, or even allege, that the situation changed significantly after the deadline for the first phase. It therefore falls well short of the proof required by Article 2.28 of the Enrolment Policy to justify a case of force majeure.

9.

As the applicants have failed to establish that the Central Enrolment Authority

erred in finding that they had not established a case of force majeure which would justify an enrolment application during the second phase, their appeal must be dismissed.

On the legal and other costs,

10.

Article 27 of the Rules of Procedure of the Complaints Board provides: “*The unsuccessful party shall be ordered to pay the legal and other costs of the case if they have been applied for by the other party. However, if the particular circumstances of the case so warrant, the Complaints Board may order the latter party to pay the legal and other costs or may order that they be shared between the parties. Where the parties have come to an agreement on costs, the decision as to costs shall be in accordance with that agreement. If costs are not claimed, the parties shall bear their own costs.*”.

It follows from these provisions, which are in fact quite similar to those in force before most national or international courts, that the unsuccessful party must, in principle, bear the legal and other costs of the case.

The applicants having failed in their arguments, they must be ordered to bear the Schools’ legal costs which can be assessed, *ex aequo et bono*, at EUR 750.

FOR THESE REASONS, the Complaints Board of the European Schools

DECIDES

Article 1: The appeal of Ms [REDACTED] and Mr [REDACTED], registered under case number 25/42, is dismissed.

Article 2: The applicants are ordered to bear the Schools' legal costs which can be assessed, ex aequo et bono, at EUR 750.

Article 3: This decision shall be notified in accordance with Articles 26 and 28 of the Rules of Procedure.

E. Menéndez Rexach

M. Ronayne

H. Tagaras

Brussels, the 18th of August 2025

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For the Registry,
Nathalie Peigneur