

Appeal 25-37

COMPLAINTS BOARD OF THE EUROPEAN SCHOOLS

Reasoned Order of 19 June 2025

In the case registered with the Registry of the Complaints Board under No **25-37**, concerning an appeal lodged on 28 May 2025 by Me [REDACTED], lawyer acting in the name and on behalf of Mr [REDACTED] and Ms [REDACTED] domiciled at [REDACTED] brought against the decision of the Central Enrolment Authority dated 14 May 2025,

Mr Pietro Manzini, judge rapporteur designated by the Chairman of the Complaints Board to rule by means of a reasoned order under the conditions laid down in Article 32 of the Rules of Procedure, according to which: *"Where the Complaints Board is manifestly lacking in jurisdiction to hear a complaint or where a complaint is manifestly inadmissible or manifestly unfounded in law, a ruling may be given, without continuing the proceedings, by way of a reasoned order made by the Chairman or the rapporteur designated by him"*,

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

delivered this reasoned order on 19 June 2025, the grounds for and operative part of which appear below.

Main facts of the case and arguments of the appeal

1.

The applicants are the parents and legal representatives of [REDACTED]
[REDACTED]

During the first enrolment phase, they submitted an application for the enrolment of their son for the first year of the secondary cycle (S1) of the FR section at the European School, Brussels III for the 2024-2025 school year.

They have indicated that their son has "*Special educational needs*", supported by a medical attestation dated 23 January 2025 outlining the necessary schooling modalities.

On the other side, they have not invoked any particular circumstances to justify a priority criterion in accordance with Article 8.5 of the Policy on Enrolment for the 2024-2025 school year (hereinafter the PE).

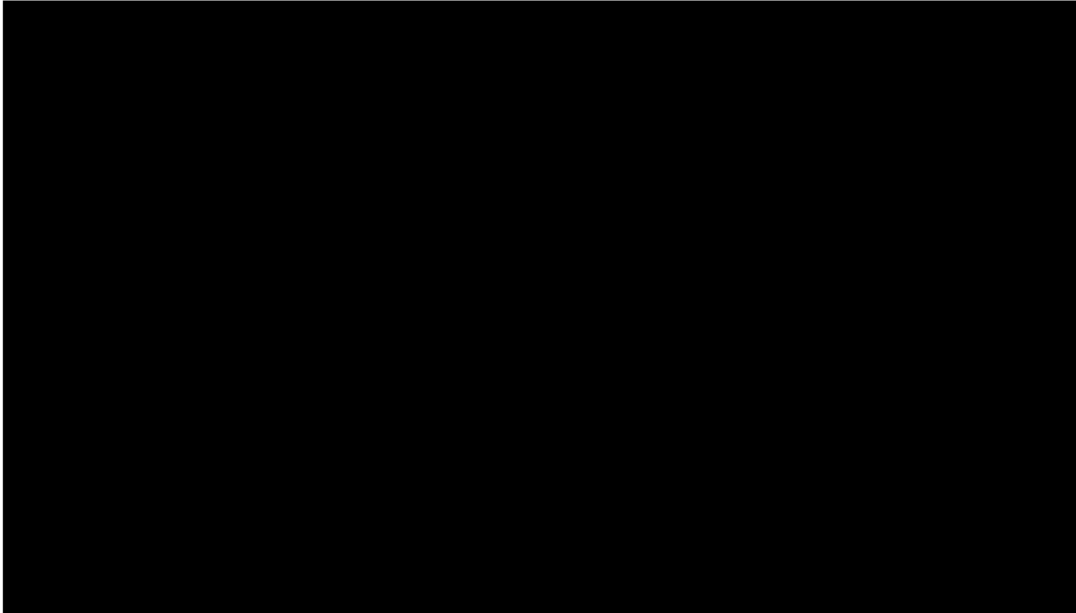
2.

With its decision dated 8 April 2025, the Central Enrolment Authority (hereinafter the CEA) offered a place in S1 FR at the European School, Brussels IV (school of their fourth preference), as there was no more place available in the other schools at the time when their enrolment application was dealt with according to the ranking order.

The CEA offered this place in accordance with Articles 6.1., 6.15., 6.16., 6.17.h) and 10.4.h) of the PE 2025-2026.

3.

On 13 April 2025, the applicants submitted a request seeking review on the basis of Article 14.2.2. of the PE, invoking a new fact documented by a medical attestation dated 9 April 2025 issued by the Dr [REDACTED] in the following terms:



4.

By decision dated 14 May 2025, the CEA rejected this request seeking review.

The current contentious appeal is brought against this CEA's decision dated 14 May 2025, as allowed by Article 67, paragraph 2 of the General Rules of the European Schools and Article 14.3 of the PE 2025-2026.

5.

The applicants request the Complaints Board to annul the CEA's decision dated 14 May 2025 and to order the European Schools to bear its own costs, as well as the applicants' costs for the current proceedings, estimated at EUR 1500 *ex aequo et bono*.

In support of their appeal, the applicants submit two pleas in law:

First plea in law: the CEA erred in concluding that the requirements of Article 14.2.2. of the Enrolment Policy were not met

- a) the new fact which came to light after the disputed decision and which is beyond the applicants' control is not the medical condition of their son, but the medical insight provided in the attestation dated 9 April 2025, namely "*the particular vulnerability of the applicants' son to sleep deprivation*" and the negative impact of the long commute between home and the European School Brussels IV (Laeken) ;
- b) the medical attestation dated 9 April 2025 provides evidence that reassignment to Brussels III or Brussels II is an essential measure for the treatment of the child's medical condition.

Second plea in law: the child's best interest must override the rules of the Enrolment Policy, and the disputed decision is disproportionate

Assessment of the designated judge rapporteur

6.

The current appeal is manifestly unfounded in law under the provisions of Article 32 of the Rules of Procedure for the Complaints Board mentioned above:

Concerning the first plea in law,

7.

Firstly, it is undisputed that the applicants indicated in the enrolment application that their son has "*Special educational needs*" and that they have not invoked any particular circumstances to justify a priority criterion in accordance with Article 8.5 of the PE, especially a circumstance based on the medical condition of their son (Article 8.5.4).

The medical condition was invoked - and the attestation dated 23 January 2025 provided - in order to support the "*Special educational needs*", not in order to justify a priority criterion in accordance with Article 8.5 of the PE.

Article 8.5.2 require that the priority criterion "*will be accepted only when it is invoked upon submission of the application*" and Article 8.5.7 foresees that "*Except in duly substantiated cases of force majeure, items of information and documents communicated after submission of the application for enrolment will automatically be disregarded in considering the application, even though they might relate to a situation occurring prior to the submission of the enrolment application or to its handling by the CEA*".

These provisions are merely the expression of a general principle that the legality of an administrative decision is assessed when the decision is made, according to the elements that the administrative authority making the decision knows of, or should know of, at that point in time (see decisions 16-24 (point 7), 16-33 (point 14), 19-21, 19-36, 21-21 and 22-33 (point 6)).

For sake of completeness, it could be pointed out that the schooling modalities outlined in the medical attestation dated 23 January 2025 can all be put in place in any European Schools of Brussels.

8.

The applicants introduced a request seeking review of the CEA's decision offering their son a place at the European Schools of Brussels IV, on basis of a new medical attestation dated 9 April 2025 (point 3 above).

According to Article 14.2.2 of the PE:

Applications for review of decisions of the CEA may be made by applicants, provided that they have not lodged a contentious appeal, when a new fact, beyond their control, of which neither the applicants for enrolment nor the CEA itself were aware, comes to light after the first decision has been taken. This new fact must have a decisive impact on the application's handling and be regarded as a particular circumstance within the meaning of Article 8.5. of the Policy on Enrolment.

The applicants could not be followed when they argue that the new fact which came to light after the disputed decision and which is beyond their control, would be the particular vulnerability of their son to sleep deprivation and the negative impact of the long commute between home and the European School Brussels IV (Laeken) as explained in this second medical attestation.

The child's medical condition [REDACTED] did not come to light after the first CEA's decision and the applicant were aware of it at the time they submitted the enrolment application since the child is treated for several years.

They did not invoke this medical condition as a priority criterion at the time of the enrolment application and the second medical attestation dated 9 April 2025 was drafted only to try to circumvent the rules of admissibility reminded above (Articles 8.5.2 and 8.5.7) and for the needs of the request seeking review.

9.

Abundantly, it could be added that according to established case law of the Complaints Board (see decisions 14/08, 16/36, 18/33 (point 5), 19/02 (point 10), 21/05 (point 9), 22/32 (point 8) and 23/13), the medical certificate must clearly indicate the nature of the *condition*, but also the nature, frequency and location of the *treatment required* for which the choice of the school would be an *essential measure*. It must also be demonstrated that, without granting the requested priority, the treatment or care cannot be provided, or can be provided under conditions which impose *excessive, unacceptable or disproportionate burdens* on the parents and the child (see decisions 18/33, point 5, 19/18 and 23/13).

10.

In this case, the medical attestation dated 9 April 2025 does not refer to a treatment, but merely to the necessity of a "*sufficient sleep*" or a « *strict sleep hygiene* ». It merely clarifies that "*a lack of sleep directly worsens both the* [REDACTED] *, and that this would severely impair*

██████s *quality of life and his ability to learn*".

Lack of sleep could be avoided by anticipating the time to go to bed. It can also be added that the fatigue due to the daily commute between home and the School of Brussels III (or II) should not be overestimated since these journeys are made by private school buses from door to door (as opposed to public transport).

Furthermore, the applicants do not provide any detailed information about the child's psychological follow-up frequency.

In conclusion, it must be considered that the medical attestation dated 9 April 2025 does not establish that the schooling at Brussels III or Brussels II would constitute an essential measure for the treatment of the applicant's son condition withing the meaning of Article 8.5.4, or that a « *strict sleep hygiene* » could not be respected or the psychological therapy be followed when attending the School of Brussels IV.

11.

It must be then concluded that the CEA did comply with the provisions of the PE 2025-2026.

Concerning the second plea in law,

12.

For the same reasons, it is not proven that the disputed decision would run counter to the overriding interest of the child and would be

disproportionate.

13.

Having regard to the above, the present appeal is manifestly unfounded in law as the disputed decision gives a clear and complete motivation and respects the PE 2025-2026 and the Complaints Board's constant case law on the matter discussed.

This appeal must therefore be dismissed as manifestly unfounded.

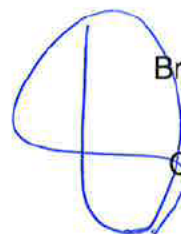
ON THESE GROUNDS, the designated judge rapporteur

D E C I D E S

Article 1: The appeal of Mr [REDACTED] and Ms [REDACTED] registered under No **25-37**, is dismissed.

Article 2: This reasoned order shall be notified in accordance with the conditions under Articles 26 and 28 of the Rules of Procedure.

P. Manzini



Brussels, on 19 June 2025

Original version : EN

On behalf of the Registry,

— Nathalie Peigneur

Under Article 40a of the Rules of Procedure, this order "may exceptionally be referred to a section composed of three members at the express request of a party based on a particularly serious ground and made within one month after notification of the decision given."