Appeal 25/51

[redacted]

COMPLAINTS BOARD OF THE EUROPEAN SCHOOLS

(1st section)

Decision of 5 November 2025

In the case registered under No **25/51**, concerning an action brought on 21 August 2025 by Mrs [redacted] and M. [redacted], legal representatives and parents of [redacted], domiciled at [redacted], with main *petitum* the annulment of the decision of 7 August 2025 of the Secretary General of the European Schools rejecting the Administrative Appeal against the decision of 8 July 2025 of the Director of the European School of [redacted], which had refused to change the L1 and L2 of [redacted], and thus confirming the said decision of the 8 July 2025, as well as the annulment of this latter decision,

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

- Eduardo Menéndez Rexach, Chairman of the Complaints Board,
- Paul Rietjens, member,
- Haris Tagaras, member, rapporteur,

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

having regard to the Witten Observations of the European Schools, presented by Me Muriel Gillet and Me Marc Snoeck, lawyers, registered at the Brussels Bar, as well as to the Reply by the Applicants and to the Rejoinder by the European Schools, as above represented,

having decided that, as permitted under Article 19 of the Rules of Procedure (but as it was also requested by the Applicants), the case would not be heard at a public hearing,

delivered on 5 November 2025 the decision in respect of which the reasons and grounds and the operative part thereof appear as follows:

Main facts of the case

1.

The Applicants' son, [redacted] (hereafter also "pupil"), attends the European School of [redacted] (hereafter also "School") since the nursery cycle, in the English language section as a [redacted] SWALS pupil.

He completed the primary cycle in the 2024-25 school year and entered the secondary cycle in the running 2025-26 school year.

2.

On 3 April 2025, and in view of their son's upcoming enrolment to the secondary cycle, the Applicants submitted an initial request to change his L1 from [redacted] (SWALS) to English. They also requested a change of L2 from

English to [redacted].

In support of their request, the Applicants claimed mainly that English, and not [redacted], was their son's dominant language, insisting at the same time on the complexity of the [redacted] language, with its "intricate declension" rules and the numerous exceptions.

By decision dated 4 April 2025, the Director of the School rejected the Applicants' request on the grounds that it was not based on any "compelling pedagogical reason".

3.

On 9 May 2025, the Applicants submitted a new, more detailed, request, accompanied by the opinion of Ms [redacted], of the Koliber Child Development Support Centre, dated 18 April 2025 and diagnosing developmental dyslexia in the pupil. The opinion stresses that [redacted] manages English much better than [redacted] and refers extensively to his weaknesses in this latter language, "specific due to developmental dyslexia"; it finishes with some "tips" to teachers and parents aiming at improving the situation (e.g., with regard to teachers, providing additional compensatory classes and adapting/easing criteria for written words and conditions for examinations).

Considering this diagnosis as a new element, the Director of the School reconsidered the request, but still concluded to its rejection, by decision dated 8 July 2025.

The Administrative Appeal lodged, on 15 July 2025, by the Applicants before

the Secretary-General, was rejected by decision of the latter, dated 7 August 2025.

It is against the above two decisions that the present Appeal is lodged, with a request for annulment, while in the “Relief sought” part of the Appeal the Applicants also ask the Complaints Board:

- to declare the presence of “compelling pedagogical reasons”,
- to request approval by the School of the requested changes of language and, “in the further alternative”,
- to request formal assessment by the School of the pupil's dominant language, pursuant to Article 47 e) of the General Rules of the European Schools (hereafter “General Rules”).

The parties’ positions

4.

The Applicants raise in essence six (6) pleas in law in their Appeal:

a) Procedural irregularities leading to misapplication of Article 47 (e) of the General Rules - “Compelling Pedagogical Reasons”,
b) Breach of the Principle of the Best Interests of the Child,
c) Failure to Apply the Decision of the Board of Governors re: [redacted] as L2,
d) Possible Breach of the Principles of Equal Treatment and Legitimate Expectations,
e) Additional Procedural Irregularities,
f) New Relevant Facts Not Taken into Account.

In support of these pleas, the Applicants invoke and develop numerous arguments, some of them being common to more than one plea. The Complaints Board observes in particular that in the “Reasoning” part of the Appeal, which occupies the major, by far, part of it (from page 5 to the end of the Appeal, i.e. to page 24), not only there is an introductory part of three pages, “Background Information – Specific Challenges and Learning Needs for our Son”, relating by definition to all pleas, but also that the first and the second pleas are addressed and developed jointly in the Appeal.

In view of the above, the Complaints Board, in presenting/summarizing hereafter the Applicants’ position, will not proceed strictly by plea, but by paying mostly account to the arguments raised, irrespective of the plea (or pleas) in support of which the arguments are developed.

5.

Having said that, and starting by the two first pleas, the Complaints Board understands the Applicants’ grievances and complaints as mainly reproaching to the contested decisions to have ignored (or at least undervalued), firstly, the fact that their son’s dominant language is by far English, and not [redacted], and that his forced attachment to the latter language (as L1) will affect his well-being and will undermine his academic and professional perspectives, secondly, that [redacted] being a non-pronunciation language, it is particularly unsuitable for a person suffering, as their son, from developmental dyslexia. They also claimed that the authors of the contested decisions unduly applied “excessively high standards” to the concept of “compelling pedagogical reasons” (the occurrence of which could justify the linguistic change requested) and overlooked the best interests of the child, while the safeguard

of such interests should be the guiding principle for any decision concerning a child.

In addition to these substantive grounds, sufficiently pleading, according to the Applicants, in favour of the annulment of the contested decisions, the Applicants claim that the said decisions suffer from multiple procedural irregularities, affecting their validity in law. The Appeal distinguishes between, on the one hand, irregularities "leading to misapplication of Article 47 (e) of the General Rules" (as the abovementioned, supposedly excessive high standards of the "compelling pedagogical reasons" or the supposed failure to take into account their son's developmental dyslexia) and, on the other hand, "additional procedural irregularities" (fifth plea, irregularities related, *inter alia*, to the Class Council's meeting, convened on the subject-matter of the linguistic request concerning the Applicants' son).

Furthermore, the Applicants complain of a "possible" breach of the principles of equal treatment and of the legitimate expectations, claiming that linguistic changes as those requested by them were accepted "in at least two comparable cases in 2024" and asking the Complaints Board to order submission of the files concerned, "so as to allow for a proper comparative review".

Lastly, and with regard specifically to L2 (which would be [redacted], and L3 [redacted], in the event of acceptance of the change of L1 to English), the Applicants claim:

- that erroneously the Secretary-General required the occurrence of "compelling pedagogical reasons" also for the change of L2 to [redacted], since the Board of Governors, with a decision effective September

2023, offered this possibility, without conditions for pupils of the European School of [redacted],

- that erroneously the European Schools assumed that both [redacted] and [redacted] would “constitute entirely new foreign languages” for their son.

6.

The European Schools build their defence on the fundamental principle of designating as L1 the mother tongue / dominant language of the pupils at the moment of their enrolment and of accepting changes only exceptionally, for “compelling pedagogical reasons”, duly established by the Class Council. They refer to this effect to Article 47 (e) of the General Rules and they add that changes of L2 (as well as of L3 etc.) are also subject to strict restrictions, the main difference between L1 and L2 (and L3 etc.) being that, contrary to the former, the choice of the latter, at the moment of the initial enrolment, may be open to the parents.

Having recalled the principle and citing on a number of issues the case-law of the Complaints Board, the European Schools oppose a detailed reply to the various points made in the Appeal. In essence, they accept that English is currently the pupil’s dominant language, but they point out that it was not the case at the moment of his first enrolment, and they deny the existence of compelling pedagogical reasons justifying the replacement of [redacted] by English as L1 (as well as the change of L2).

They also deny the comparability of the situations on the basis of which the Applicants complain of unequal treatment and of breach of their legitimate expectations, as well as the occurrence of the various procedural irregularities allegedly committed.

As to the claims and grievances aiming more specifically at the change of L2 (in particular third and sixth plea), the European Schools contest the factual and legal accuracy of the Applicants' allegations.

7.

In their Reply, the Applicants insist in particular on arguments deriving from the Class Council meeting which dealt with their request and refer also to new facts, having occurred after the beginning of the 2025-26 school year and pleading, according to them, in favour of their position (e.g. the reduction of [redacted] classes from five to four periods per week, the absence of educative support, for [redacted], to their son and the allegedly very low level of English as L2). They extensively object at the same time the European Schools' position according to which the request concerning [redacted] as L2 is accessory to the request of adopting English as L1.

Irrespective of the above, one of their conclusive points is that there are "systemic limitations of the SWALS system", which often lead to "a lower degree of knowledge of L1" and which therefore, possible together with other factors, may constitute "compelling pedagogical reasons", within the meaning of Article 47 e) of the General Rules, allowing the change of L1.

8.

In their Rejoinder the European Schools either deny the relevance or consider as premature the points made by the Applicants with regard to the new facts (claiming, *inter alia*, that the absence, up to now, of specific educational support to the pupil is due to the overriding constrains of the beginning of the

school year and ensuring that such support will be certainly provided in the immediate future), while, with regard to the pleas of discrimination and breach of legitimate expectations, they explain why the situations of the other pupils invoked by the Applicants (i.e. of pupils for which the request for change of L1 was accepted) were different from their son's situation, such difference leading necessarily to the rejection of the pleas of discrimination and of breach of legitimate expectations.

Assessment / Findings of the Complaints Board

Regarding the admissibility of the Appeal,

9.

As the Complaints Board has iteratively pointed out since its decision 07/14 of 30 July 2007, "it has exclusive jurisdiction, in accordance with Article 27 of the Convention defining the Statute of the European Schools, to judge on the legality of the contested acts, but it is vested with unlimited jurisdiction, allowing it not only to annul an administrative act, but also to review it, to condemn the issuing administration and to address injunctions to the latter, only if the dispute is of a financial character" (point 11, second paragraph), which is not the case here.

10.

Therefore, the Appeal is admissible solely to the extent that is seeks the annulment of the decisions of 7 August 2025 by the Secretary General and of 8 July 2025 by the Director of the European School of [redacted] (see second

and third paragraph of the above point 3), but inadmissible with regard to its other requests (those listed in the fourth paragraph of the said point 3).

Regarding the merits

11.

As the European Schools rightly points out, one of the fundamental principles of the organization of the studies in the European Schools consists in the steadiness of the L1, which (irrespective whether as mother tongue or dominant language) is determined at the moment of the first enrolment of a pupil at the Schools and, as a matter of principle, can only be changed in exceptional circumstances, namely for “compulsory pedagogical reasons", within the meaning of Article 47 e) of the General Rules.

12.

On the basis of common knowledge and experience, the Complaints Board acknowledges that, for expatriated families/pupils, mother tongue and dominant language tend to coincide at the early stages of their expatriation, being the language of the place of origine of the pupil concerned, while, as the years go by, it is, in most cases, either English or the language of the new place of residence which become “dominant” for the pupils.

At the same time, pupils tend to encounter difficulties with their language of origine, feeling much more at ease with the two languages mentioned at the end of the above paragraph. Depending on the particular circumstances of

each case (number of years spent at the place of origin, language spoken at home etc.), such difficulties may be quite serious.

And it is perfectly understandable that in these cases parents consider often that it is in the best interest of their child to replace, as above, the initially determined L1 (also, possibly, L2 etc.), and they therefore seek such replacement, having in mind the well-being of their children in the everyday life (including their social insertion in the human environment of the new place of residence) and aiming also at the enlargement their educational and perspectives.

Undoubtedly the requests of this kind appear reasonable, given that the linguistic replacement sought aims precisely at designating as L1 the language which is indeed the dominant language of the pupil concerned.

13.

However, as it results from the Complaints Board's constant case-law, such situations are not to be considered as fulfilling the condition of "compelling pedagogical reasons" on the existence of which Article 47 e) makes dependent the change of language. Indeed, the above concept, to the extent that it introduces an exception, is to be interpreted strictly, i.e. as allowing the change only when "it is indispensable or fundamentally necessary for the pedagogical development of the child" (case 15/47, point 18, iteratively confirmed by the Complaints Board, e.g. in cases 16/14, 16/48, 21/04 – emphasis added).

Each of the above terms has a specific meaning. According to *Collins Cobuild Advanced Dictionnary*, Heinle 2009, "indispensable" refers to something which is "absolutely essential and other people or things cannot function

without them", while "necessary" means that "something is needed to happen" (emphasis added).

As the Board has clearly explained in cases concerning linguistic changes, the dominant character of the language in favour of which the change is sought, should constitute, more than a "determining pedagogical criterium" (*critère pédagogique determinant*), also an "overriding pedagogical ground" (*motif pédagogique impérieux*) for the change, assessment which, due to its potential severe future consequences for the educational perspective of the pupil requires the taking into account of all relevant elements of the pupil's file (case 19/48, points 20/21 – emphasis added).

It is therefore not sufficient to claim that the change will facilitate and improve the pedagogical situation of the pupil concerned, in other words that it will present comparative advantages. It has to be contended, with some high standard of proof, that, in absence of the replacement sought, the pedagogical development of the pupil will be blocked and come to an impasse.

Even medical reasons (e.g. the high LDL of the Applicants' son, for which in any event no casual link whatsoever can be proved with his "language" problem), are of no relevance in this context, given the "pedagogical" character (decisions 19/60 and 21/04) of the decisions on change of languages.

14.

It is not on the Complaints Board to research and identify the *postulats* on the basis of such system, i.e. the pedagogical grounds or other assumptions which led the experts who established the organisation of the European Schoosl studies to opt for the said system. Nor it is in the Complaints Board's

competence to make comparative assessments as to the merits of the current system versus any other system.

On the contrary, it is the Complaints Board's responsibility to ensure the respect of the fundamental principles and rules governing the operation of the current system and reject any request for change of language which, although appearing *prima facie* reasonable, runs counter to the said principles and rules.

15.

This is the case of the Applicants' request. Without contesting that their son current dominant language is English (the European Schools have admitted it explicitly) and that its assignment as L1, in replacement of the [redacted] language, may have some positive pedagogical effects, nothing in the file allows to convincingly claim that, in absence of the requested linguistic change, the Applicant's son will find himself in the situation described in the above point 13, fourth paragraph *in fine*, or, *a fortiori*, and to use the very carefully selected words of decision 19/59, point 22, that he "does not possess the capacity of fruitfully pursuing his schooling in the language in which he was educated from the beginning in the European Schools". Nor, in absence of any legal basis to this effect, it is possible to share the Applicants' pleading in favour of differentiation between SWALS and other pupils with regard to changes of language (see above, point 7, last paragraph).

16.

In this context the Complaints Board notes, in addition, the pupil's good notes in [redacted] and the European Schools' undertaking to provide him with the necessary educational support.

17.

As for the multiple arguments put forward by the Applicants, the Complaints Board observes that many of them seem to proceed from a misapprehension and misconception of the European Schools' fundamental principle consisting in allowing the change of L1 only under the very restrictive condition of Article 47 e) of the General Rules, as interpreted by the Complaints Board. These arguments are therefore to be dismissed for the reasons explained in the above points 11 to 14.

18.

On the contrary, the Complaints Board will reply hereafter to those of the Applicants' pleas and arguments which are not inherently linked to the abovementioned principle of language steadiness in the educational system of the European Schools, adding at the same time that its decision is without prejudice to any future decision that it may take, in the event, in particular, that the educational support promised by the European Schools proves insufficient and the Applicants reiterate requests for linguistic changes.

19.

As to the developmental dyslexia

The Complaints Board notes at the outset that the first Applicant's request for the linguistic changes sought, of 3 April 2025, does not refer at all to the developmental dyslexia of their son, but it is exclusively founded on the argument that English, and not [redacted], was his dominant language. It is only one month later that the diagnosis of the developmental dyslexia occurred, by an opinion dated 9 May 2025, of Ms [redacted], "pedagogue / pedagogical therapist" in [redacted], according to her signing of the opinion.

Having said the above, the opinion confirms the dominant character of the English language for the pupil and the difficulties that he encounters with [redacted], but it is far from explicitly suggesting any change of language for his studies, let alone from making reference to any absolute need for such changes. On the contrary, the "tips" it suggests presuppose that the linguistic situation remains unchanged.

20.

As to the Class Council meeting

According to Article 47 e) of the General Rules, a position by the Class Council establishing the existence of "compulsory pedagogical reasons" is a prerequisite for the decision by the concerned School's Director authorizing the change of L1. It results clearly from the above provision, as well as from the European Schools' Language Policy (2019-01-D-35, "Should a change of language … the decision lies with the Director", page 18/31), and it is also

accepted by the Applicants (see in particular page 6/18 of their Reply : "…the position of the Class Council should be …duly considered"), that the said position is of consultative character and by no means binding on the Director, who has the final responsibility for the decision, taking into account all relevant pedagogical factors.

Therefore, the Applicants' procedural grievances concerning the meeting of the Class Council convened to take a position on their request are ineffective, as they conclude to the fulfilment of the condition of "compelling pedagogical reasons" required (which is far from being established). The Director may still, benefitting from a margin of appreciation, perceive differently the pedagogical reasons concerned and refuse the change of language sought. It is not on the Board to substitute its own appraisal of those reasons to the Director's appraisal (as it is not on the Complaints Board to censure the pedagogical assessment of the pupils made by teachers, question on which there is a constant case-law - e.g. decision 19/26).

It could only be otherwise in the event of material inaccuracy of the relevant facts or in the event of manifest error of assessment. However, nothing in the Director's decision of 8 July 2025 (or in the Secretary-General's confirmation, on 7 August 2025, of the said decision) allows to perceive existence of such flaws.

On the contrary, the Director's decision explains extensively, and in a coherent manner, why serious pedagogical grounds pleaded in favour of rejection of the request (arguing, *inter alia*, that "[a]bandoning the native language is generally not advised within our pedagogical approach, as it can potentially undermine the foundation for overall linguistic and academic development"). The Complaints Board notes also the detailed reply of the Secretary-General to the

Applicants' Administrative Appeal and observes in this context that the Contentious Appeal reiterates in substance the Administrative Appeal's allegations, without addressing specifically the points made by the Secretary General.

21.

As to alleged violation of the principles of equal treatment and of legitimate expectations

Without need to recall the principle that "there is no equality in unlawfulness" (e.g. E.U. General Court 13/12/2023, case T-621/22, SB/SEAE, EU:T:2023:805, point 110), the Complaints Board wishes to stress that the principle of equal treatment presupposes "comparable" situations and that the pedagogical situation of pupils are so intensively marked by the specificities of each particular case (regarding in particular their educational difficulties and needs), that it can hardly be question of real comparability. Therefore, the Complaints Board can but dismiss the ground of annulment drawn from the supposed breach of the principle of equal treatment, without addressing the European Schools' arguments denying the comparability of the pupil's situation with the situation of the pupils invoked by the Applicants as having "benefited" from a change of language.

With regard to the second limb of this plea, i.e. breach of legitimate expectations, the Complaints Board will again refer to the ECJ case-law, which constantly holds that such breach can only be invoked by a person to which the competent authority has given "precise, unconditional and consistent assurances", concerning the litigious subject-matter (CJ 27.2.2025, case C-32/24P, OA/European Parliament, EU:C:2025:118, point 67). Clearly,

however, the Applicants have not alleged, let alone proved, that they have received such assurances by the competent School or other authorities.

22.

As to the [redacted] and [redacted] languages - L2 and L3

The parties disagree as to whether the request to assign [redacted] as L2 is accessory to the request of assigning English as L1, in which case the rejection of this latter request would also bring rejection of the request concerning [redacted], or whether it has an autonomous character and should be decided on its merits, independently from the Complaints Board's decision on L1. They also disagree as to whether pupils of the European School of [redacted] has an *ex lege* right to change their L2 to [redacted] or whether the condition of Article 47 e) needs to be fulfilled also for such change.

However, in their Rejoinder the European Schools declare that the European School of [redacted] is ready to accept the change of the pupil's L2 from English to [redacted], irrespective of the outcome of the current proceedings and without further condition or further delay. The Complaints Board was also informed that [redacted] was accepted as the pupil's L3.

Therefore, there is no need for the Complaints Board to deal in its decision with the L2 and L3 issues.

Regarding the legal and other costs,

23.

Article 27 of the Rules of Procedure states that *"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 … If costs are not claimed, the parties shall bear their own costs."*

It follows from these provisions, which are furthermore comparable to those in force in many national or international jurisdictions, that the unsuccessful party should, in principle, pay the legal and other costs of the proceedings.

However, these provisions also allow the Complaints Board to assess the conditions under which they should be applied *ex aequo et bono* and on a case-by-case basis.

24.

In the circumstances of this case, characterized by a double exchange of written pleadings and the absence of a public hearing, and taking into account that the Appeal was dismissed with regard to the request concerning L1, but the Applicants obtained eventually what they were seeking *re* L2 and L3, which meant that the Complaints Board did not need to adjudicate on the latter two languages, it is appropriate to decide that the parties shall bear their own legal and other costs.

ON THESE GROUNDS,
the Complaints Board of the European Schools

D E C I D E S

Article 1: The appeal brought by Mrs [redacted] and M. [redacted], registered under No **25/51**, is dismissed to the extent that it concerns the Applicants' son L1.

Article 2: There is no need to adjudicate on the legality of the contested acts to the extent that they concern the Applicants' son L2 and L3.

Article 3: The parties shall bear their own legal and other costs.

Article 4: This decision shall be notified in accordance with the conditions under Articles 26 and 28 of the Rules of Procedure.

E. Menéndez Rexach P. Rietjens H. Tagaras

Brussels, on 5 November 2025
Original version: EN

On behalf of the Registry,
Nathalie Peigneur