

Case 25/31

████████████████████

COMPLAINTS BOARD OF THE EUROPEAN SCHOOLS

(1st section)

Decision of 17th of July 2025

In the case registered at the Registry of the Complaints Board under No 25/31, concerning an action brought on the 22nd of April 2025 by Ms ██████████ ██████████ and Mr ██████████ ██████████, residing at ██████████ ██████████ acting in their capacity as legal representatives of their child, ██████████ ██████████ seeking the annulment of the decision of the Central Enrolment Authority of 8th of April 2025, which offered their son, ██████████ ██████████, a place in the sixth, and not the seventh, secondary year in the ██████████ language section at the Brussels I European School – Uccle site (hereafter “contested decision”).

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

- Mr Eduardo Menéndez Rexach, President of the Complaints Board,
- Mr Aindrias Ó Caoimh, member,
- Mr Mark Ronayne, member and rapporteur,

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 17th of July 2025 the decision in respect of which the reasons and grounds and the operative part thereof appear as follows:

The facts

1.

The applicants are the parents of ██████████ who was enrolled in the secondary cycle of the Brussels I European School - Uccle site (hereafter “the School”) from the first secondary year (2018-2019) to the sixth year (2023-2024) which he successfully completed.

On 4 September 2024, the second applicant informed the Deputy Director of the secondary cycle that his son would be following a course at a High School in the ██████████ during the 2024-2025 school year but would then return to the School to complete the secondary cycle in seventh year with a view to obtaining his Baccalaureate.

That same day, a representative of the School informed the applicants that if their son left to complete an exchange year in the ██████████, he would be removed from the roll and a new application would have to be submitted in due course, without any guarantee that he would get a place at the same school. The following day, she also drew his attention to the fact that, in accordance with Article 2.2 of the Arrangements for Implementing the Regulations for the European Baccalaureate, attendance in years six and seven must be regular and consecutive with the result that if ██████████ wished to return to the European School system after his year in the ██████████, he would need to enrol again in year six.

██████████ didn't attend the School during the 2024-2025 academic year and was removed from the roll by the School.

2.

On 26 January 2025, during the first phase of the 2025–2026 enrolment campaign, the applicants submitted an application to enrol ██████████ in the seventh secondary year of the ██████████ language section. In response to the question: “*Would you like any*

particular circumstances to be taken into consideration in accordance with Article 8.5 of the Policy?", the applicants answered yes. They attached a declaration in which they indicate that:

"Our son, ██████████, has completed the first six years of the secondary cycle (S1 to S6) in the ██████████ section of EEB1 in the period of 2018-2024. In the 2024-25 academic year he is participating in the ██████████ sponsored by the ██████████, continuing his studies at Senior grade in the ██████████ (see documents in Annex). After completing his exchange year in the ██████████, ██████████ intends to continue and complete his studies at S7 level in the ██████████ section of EEB1."

3.

On the 7th of February 2025, the Director of the School replied to the applicants in the following terms:

"We acknowledge receipt of your application for the enrolment of your son ██████████ in S7 of the ██████████ language section.

Following analysis of the objective elements of your application, the Management considers that the child should be enrolled in S6.

According to Article 2.2. of the Arrangements for Implementing the Regulations for the European Baccalaureate, regular and consecutive attendance at classes in years 6 and 7 of the secondary cycle is a sine qua non condition to be admitted to the European Baccalaureate session. Pupils must have completed without interruption the final two years of secondary education in a European School or in a School Accredited by the Board of Governors.

This decision has been adopted without prejudice to the decision to be taken by the Central Enrolment Authority on award of a place in one or other of the European Schools.

..."

4.

Following further exchanges between the second applicant and the Director, on 8 April 2025, the Central Enrolment Authority wrote to the applicants in the following terms:

“The circumstances invoked as a special priority criterion cannot be deemed to be special circumstances within the meaning of Article 8.5. of the Policy on Enrolment in the Brussels European Schools for the 2025-2026 school year (2024-12-D-14-en-2), which is available for consultation on the European Schools website www.eursc.eu.

The reason is that questions of a pedagogical nature connected with the European Baccalaureate cycle are a matter solely depending of the Regulations for the European Baccalaureate.

In addition, enrolment of ██████ in S7 is not possible under the provisions of Article 2.2. of the Arrangements for implementing the Regulations for the European Baccalaureate (Applicable for the Year 2025 European Baccalaureate sessions - 2015-05-D-12-en-44), which provide that: “ (...) regular and consecutive attendance at classes, whether in situ or online as specified in Article 26a of the General Rules of the European Schools, in years 6 and 7 of the secondary cycle is a sine qua non condition to be admitted to the European Baccalaureate session. Pupils must have completed without interruption not less than the final two years of secondary education in a European School or in a School Accredited by the Board of Governors.”

Following pedagogical analysis of ██████'s file by the European School, Brussels I, your application for enrolment was considered in S6 of the ██████ language section. The School has informed you accordingly.

Pursuant to the provisions of Articles 6.1., 6.5., 6.6. and 10.4.b) of the Policy on Enrolment, I would inform you that the Central Enrolment Authority can offer ██████ ██████ a place in Secondary 6 of the ██████ language section at the European School, Brussels I - Uccle Site. »

The forms of order sought by the parties

5.

In their appeal, the applicants request the Complaints Board to annul the decision to place their son, ██████, in S6 ██████ and give positive consideration to their request to allow him to continue his studies in S7 ██████ and complete the European Baccalaureate in the 2025-2026 school year.

In their reply, they also ask the Complaints Board to “charge the School with the procedural costs of EUR 751.00 ».

6.

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

The arguments of the parties

7.

The applicants argue that the contested decision, which they consider to be inconsistent with the School's declared objectives and values, does not reflect their son's best interests from a pedagogical point of view. Recalling that their son had been promoted to S7 and arguing that he never legally withdrew from the School, they contest the existence of a legal basis requiring him to retake the successfully completed S6 year. They also criticise the timeliness and the clarity of the School's communication with them, going so far as to suggest that some of it was misleading.

8.

The Schools argue that the contested decision, giving effect to the requirement of the consecutive completion of sixth and seventh years set out in Article 2.2 of the Arrangements for Implementing the Regulations for the European Baccalaureate, is perfectly legal. They also contest the applicants' criticisms of the timeliness and the clarity of their communication with them, recalling that the School informed the applicants that their son would be required to retake year S6 within one day of being informed of his intention to pursue an academic exchange during the 2024-2025 school year.

Findings of the Complaints Board

On the pedagogical assessment of the applicants' son's best interests,

9.

In the context of this appeal, the Complaints Board must assess the legality of the contested decision in the light of the legal arguments put forward by the applicants.

In the absence of manifest error, the Complaints Board would exceed its role if it were to set about appraising the relative merits, from a pedagogical point of view, of allowing students in S6 to take a year out to participate in academic exchanges as compared to applying a strict rule requiring consecutive completion of the S6 and S7 as a condition of access to the Baccalaureate examinations.

The Complaints Board notes that the applicants clearly do not share the School's opinion that the strict application of the rule requiring the consecutive completion of S6 and S7 should prevail, but it finds no element which would allow it to conclude that this policy judgement is beset by a manifest error of appraisal.

Timeliness of the School's communications,

10.

As regards the applicants' criticisms concerning the timeliness of the School's communication with them, the Complaints Board notes that, following the applicants' (quite late) communication to the School of [REDACTED]'s intention to pursue an academic exchange in the 2024-2025 academic year, the School transmitted the essential information that they needed, namely, first, that he would not automatically retain his place in the School, the very same day, and, secondly, that he would have to retake sixth year, the following day. There is no aspect of this rapid and pertinent communication by the School, which is central to this case, which calls into question the legality of the contested decision.

Concerning the criticism that an email sent to the Director of the School on the 13th of February 2024 went unanswered until the 3rd of March 2024, the Complaints Board considers that the time taken was not excessive and, in any event, does not affect the legality of the contested decision.

Legal basis of the requirement concerning consecutive completion of the sixth and seventh years,

11.

In so far as the applicants contest the legal basis for the imposition of the requirement concerning consecutive completion of the years S6 and S7, in a context where no rule specifically excludes the possibility of pursuing an academic exchange year, the Complaints Board notes that the rule requiring pupils wishing to take the European Baccalaureate examinations to complete sixth and seventh years consecutively is contained in the regulations adopted by the Board of Governors, entitled "Arrangements for implementing the Regulations for the European Baccalaureate", in the versions applicable to the 2023, 2024 and 2025 sessions, provides at Article 2.2 that:

"Except for duly justified reasons regular and consecutive attendance at classes, whether in situ or online as specified in Article 26a of the General Rules of the European Schools, in years 6 and 7 of the secondary cycle is a sine qua non condition to be admitted to the European Baccalaureate session. Pupils must have completed without interruption not less than the final two years of secondary education in a European School or in a School Accredited by the Board of Governors."

The requirement of the consecutive completion of sixth and seventh years set out in these rules, adopted by the Board of Governors of the basis of Article 5.2 of the Convention defining the Statute of the European Schools and Article 20 of the Regulations for the European Baccalaureate, clearly prevents a pupil who has completed S6, and then been absent from the school for a year, from continuing directly in S7 unless a duly justified reason has been invoked and accepted by the School (which is not the case here).

The applicants' intention that their son would always return to the School to complete his studies does not take away from the objective fact that he was absent from School for the 2024-2025 school year and the School was bound, by virtue of Article (3), B, i of the General Rules of the European Schools, to consider that he had left the School.

Allegation of misleading communication,

12.

Having examined the file, the Complaints Board cannot share the applicant's argument that « *it can be clearly established that both the School and the EEIB1 Director have repeatedly and deliberately provided incomplete information and arbitrary misinterpretation of the relevant rules* ».

As regards the applicants' argument that the School failed to inform them that the rules allowed exceptions "*for duly justified reasons*", the Complaints Board notes that the applicant informed the School by email of the 5th of September 2025, that is to say the very same day that he was informed that the School expected ██████ to retake S6 following the year of academic exchange, that he understood that "*the rules allow for duly justified exceptions*".

In so far as the applicants consider that the School mislead them when the Director stated that the School had "*to follow the enrolment policy, that does not foresee the possibility do be enrolled directly in S7 in after a whole gap year*", whereas according to them, nothing in the relevant policy regulates or specifically prohibits enrolment directly to S7, the Complaints Board recalls that, as noted above at point 11, that the rule requiring pupils wishing to take the European Baccalaureate examinations to complete sixth and seventh years consecutively is well established in the regulations adopted by the Board of Governors governing the European Baccalaureate examinations.

Finally, the legality of the contested decision cannot be called into question by the

fact that ██████'s report for S6 indicated that he was promoted to S7 since this information was communicated at a time when it was yet known that ██████ would be undertaking the academic exchange and when the School was consequently entitled to assume that he would comply with the condition requiring the consecutive completion of years S6 and S7.

Conclusion,

13.

As the examination of the arguments put forward by the applicants has not disclosed any illegality affecting the contested decision, their application must be dismissed.

On the legal and other costs

14.

Article 27 of the Rules of Procedure of the Complaints Board provides 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. 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 400.

FOR THESE REASONS, the Complaints Board of the European Schools

DECIDES

Article 1: The appeal of Ms [REDACTED] [REDACTED] [REDACTED] and Mr [REDACTED]
[REDACTED], registered under case number 25/31, is dismissed.

Article 2: The applicants are ordered to bear the Schools' legal costs which can be assessed, ex aequo et bono, at EUR 400.

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

E. Menéndez Rexach

A. Ó Caoimh

M. Ronayne

Brussels, the 17th of July 2025

Original version: EN

For the Registry,
Nathalie Peigneur