



delivered on 28 January 2026 the decision in respect of which the reasons and grounds and the operative part thereof appear as follows:

### **The facts**

1.

The applicants' daughter ██████ was enrolled at the European School Brussels III (hereafter "the School") in the ██████ language section since the 2021-2022 school year.

On 20 June 2025, the second applicant informed the School that ██████ would be leaving the School at the end of the 2024-2025 school year to take part in an exchange program outside the European Union, from 17 August 2025 to 11 January 2026, and of his intention to seek to enroll her again in January 2026.

The School replied on the same day reminding the applicant that enrolments during the school year were subject to three cumulative conditions, set out in Article 12.1 of the Policy on Enrolment in the Brussels European Schools (hereafter the "Enrolment Policy") then in force, and asking him, in the light of this information, to confirm his intention to withdraw ██████ for the 2025-2026 school year.

On the 20<sup>th</sup> of June 2025, the second applicant signed the form informing the School that they were removing ██████ from the School at the end of the school year, and she participated in the exchange program as planned.

2.

On 11 December 2025, the applicants requested the enrolment of ██████ during the current school year to join the fifth year of secondary school in the ██████ language section.

By decision of 18 December 2025 (hereafter “the contested decision”), the CEA rejected the application, noting that one of the three cumulative conditions of Article 12.1 of the Enrolment Policy was not met, namely that neither of ██████’s legal representatives will be taking up his/her post in one of the EU institutions nor that one of the representatives residing outside Belgium will be settling in Belgium on a long term basis in the context of a change of family situation. The CEA further considered that ██████ was not in an exceptional situation that distinguished her case from all other students participating in exchange programs, as her situation resulted from a deliberate decision by her parents, who were duly informed of the restrictive conditions for enrolment during the year following the exchange program.

### **Forms of order sought by the parties**

3.

The Applicants request that the Complaints Board:

- a) annul the decision of the Central Enrolment Authority dated 18 December 2025 declaring the enrollment application for ██████ ██████ *prima facie* inadmissible;
- b) order the Central Enrolment Authority to enroll ██████ at the European School Brussels III in Secondary 5, ██████ language section, with effect from January 2026 or as soon as administratively feasible;
- c) declare that Article 12.3 of the Policy on Enrolment is *ultra vires* to the extent that it prohibits the consideration of particular circumstances under Article 50 of the General Rules in fourth phase enrollment cases;
- d) declare that the Central Enrolment Authority violated binding provisions of international and European Union law by failing to assess and give primary consideration to ██████'s best interests as required by the UN Convention on the Rights of the Child and the EU Charter of Fundamental Rights;
- e) recommend to the Board of Governors that the Policy on Enrolment be amended to ensure compliance with Article 50 of the General Rules and the best interest of the child principle.

4.

The defendants request that the Complaints Board:

- declare the applicants' appeal partially inadmissible and unfounded;
- order the applicants to bear the costs of the proceedings, assessed on behalf of the European Schools at a sum fixed *ex aequo et bono* at €800.00.

### **The findings of the Complaints Board**

#### ***On the admissibility,***

5.

The Schools argue that the application is admissible only insofar as it seeks the annulment of the decision of the CEA dated 18 December 2025.

Article 27.2 of the Convention defining the Statute of the European Schools states provides that the Complaints Board has sole jurisdiction in the first and final instance in any dispute regarding "the legality of any act based on the Convention or rules made under it adversely affecting" all persons covered by it. It is only when a dispute of a financial character is concerned – which is not the case here – that the Complaints Board has "unlimited jurisdiction", allowing it not only to annul an administrative decision but also to change it (see, inter alia, decisions of the Complaints Board n°13/43 of 30 September 2013, n°14/42 of 24 September 2014, n°15/49 of 10 October 2015 and n°19/59 of 21 February 2020).

In its capacity as a judicial body, the Complaints Board thus has jurisdiction to annul an individual act adversely affecting a person, but it does not have jurisdiction to issue injunctions to the Central Enrolment Authority or to make recommendations to the Board of Governors.

It follows that this application is admissible in so far as it seeks the annulment of the contested decision but, for the rest, is so far as it requests the Complaints Board to

enjoin the Central Enrolment Authority to take a particular decision, to make declarations regarding the legality of particular provisions and to make a recommendation to the Board of Governors, it must be declared inadmissible.

***On the request to annul the contested decision,***

**The first ground: Article 12.3 of the Enrolment Policy unlawfully restricts a discretion granted to the Director by Article 50 of the General Rules**

6.

The applicants recall that Article 50 of the General Rules of the European Schools (hereafter the “General Rules”) provides that “duly justified particular circumstances may, as and when necessary, be taken into consideration by the Director in determining admission, with reference to the requirements set out in Articles 47 a) to d), 48 and 49 c) and d)” and that the first sentence of Article 12.3 of the Enrolment Policy provides that “a request for the taking into account of particular circumstances, within the meaning of Article 8.5., does not allow application of Article 12.1. to be waived”. They argue that this latter provision, adopted by the CEA, purports to eliminate entirely the discretion granted to directors by Article 50 of the General Rules in the context of fourth phase applications and, in so doing, constitutes an illegal restriction on a power granted by the General Rules and a breach of the principle of the hierarchy of norms.

In assessing this argument, it is important to recall that the rules on access to the European Schools consist of rules governing enrolment and rules governing admission.

The rules governing enrolment are set out in Articles 45 and 46 of the General Rules and, as far as the Brussels European Schools are concerned, in the annual Enrolment Policies adopted by the Central Enrolment Authority, taking account of guidelines set by the Board of Governors. These rules endeavor to regulate, in a fair and objective way, the competing rights of prospective pupils in a context where the advantage given to one may be to the detriment of the other. For example,

bearing in mind the negative effects that the late arrival of a pupil during the course of the school year can have on the functioning of a class, the Enrolment Policy limits the circumstances in which a pupil may be admitted in the course of the year.

Articles 47 to 49 of the General Rules concern the rules governing admission. As the Enrolment Policy explains, at point 1.5, “independently of the administrative decision on a pupil’s enrolment, the Director of the European School remains competent, as provided for in Article 47 et seq. of the General Rules, to decide on a pupil’s admission, which involves a pedagogical assessment of their academic and linguistic level allowing his/her integration into the appropriate year group and language section (in compliance in particular with the Regulations for the European Baccalaureates and with the directives relating to provision for special educational needs pupils).” Unlike the rules governing enrolment, the rules governing admission do not concern the competing rights of prospective pupils but only the subjective question of whether a particular candidate meets the admission requirements.

As is clear beyond doubt from the wording of this provision, the power granted to directors by Article 50 of the General Rules to take account of particular circumstances concerns only decisions regarding admission and not decisions, such as the contested decision in this case, on enrolment.

Article 50 of the General Rules and Article 12.3 of the Enrolment Policy thus concern different aspects of the application procedure with the result that this latter provision cannot have the effect of restricting the scope of the former.

7.

The applicants’ first ground is therefore unfounded and must be rejected.

**The second ground: the contested decision fails to give primary consideration to the best interests of the child**

8.

Recalling the terms of Article 3.1 of the UN Convention on the Rights of the Child, Article 24 of the EU Charter of Fundamental Rights, Article 3.3 of the Treaty on European Union and Article 4.6 of the Convention defining the Statute of the European Schools, the applicants argue that the CEA violated binding provisions of international and European law by failing to assess and give primary consideration to their daughter's best interests.

In adopting their enrolment policy, the European Schools must strike the right balance between the interests of pupils and their families on the one hand, and those of the organisation and management of the schools on the other. Since enrolments during the school year are likely to disrupt class formation, staffing requirements, class cohesion and the continuity of the educational path of the pupil concerned, the Schools are entitled to adopt rules designed to discourage such interruptions.

In this regard, in view of the importance of the finality of the rules set out in Article 12.1 of the Enrolment Policy, the Complaints Board does not consider that the restrictions they impose on the right to rejoin a class during a school year in circumstances such as those of the present case are disproportionate or unreasonable.

The Complaints Board notes that when the applicants took the decision to take ████████ out of school for the first four months of the 2025-2026 school year, they had been informed by the School of the applicable provisions, namely Article 12.1 of the Enrolment Policy. They knew or should have known that they would be unable to meet the conditions set out in this provision for enrolment during the school year and that there was thus a significant risk that any request to rejoin the class in January 2026 would be rejected. The School gave them no reason to believe that an exception would be made for their case.

In these circumstances, the Complaints Board considers that the contested decision, in fact taken in the application of a reasonable policy rule designed to achieve a significant objective in the interests of the Schools' pupils, does not infringe the obligation to give primary consideration to the child's best interests set out in, *inter alia*, Article 24(2) of the EU Charter on Fundamental Human Rights.

Finally, regarding the proportionality of the contested decision, the Complaints Board notes that the Schools specifically recognize in their reply that the contested decision does not imply the permanent exclusion of ██████ from the Schools and that the applicants may, if they are so minded, introduce an application for her to continue her studies in the European Schools in the 2026-2027 school year.

9.

The second ground must therefore be rejected.

**The third ground: Misapplication of the "Exceptional Circumstances" Exception in Article 12.1 of the Enrolment Policy**

10.

Article 12.1 of the Enrolment Policy allows for the consideration of "*exceptional cases affecting the pupil concerned that are duly justified at the time of submission of the application.*".

The applicants argue that, in failing to allow an exception, the CEA placed undue emphasis on the deliberate nature of their choice to withdraw their daughter from the school and that various aspects of her case – four years previous attendance, the short duration of the absence (four months), the educational purpose of the withdrawal and the absence of any change in family circumstance – plead for an exception.

In reviewing the legality of a policy decision taken by the CEA, the Complaints Board recognizes that this Authority enjoys a wide margin of discretion in the exercise of

its duties and consequently will only annul in cases of procedural error or manifest error of appraisal.

The Complaints Board finds no evidence that the CEA committed a manifest error of appraisal in failing to allow an exception in favour of the applicants' daughter. Taking account of the fact that the withdrawal from the school was the result of a free choice made by the parents is a perfectly relevant consideration. Also, given the educational and organisation finality of the policy of discouraging withdrawals, and the fact that the withdrawal lasted for the entire first term, the previous attendance at the School, the educational nature of the withdrawal or the lack of a change in family circumstances were not matters which would necessitate an exception in favour of the applicants' daughter.

11.

The third ground must therefore be rejected.

***On the legal and other costs,***

12.

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 400.

**FOR THESE REASONS, the Complaints Board of the European Schools**

**DECIDES**

Article 1: The appeal of Ms. [REDACTED] and Mr. [REDACTED] registered under case n°25/66, 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

P. Manzini

M. Ronayne

Brussels, 28 January 2026

Original version: EN

For the Registry,  
Nathalie Peigneur