



Decision in case 165/2019/AMF on how the European Commission handled alleged irregularities in the creation of a Spanish language section in the European School of Frankfurt

Decision

Case 165/2019/AMF - **Opened on** 24/05/2019 - **Decision on** 24/05/2019 - **Institution concerned** European Commission (No maladministration found) |

The complaint to the Commission

1. The complainants have two children who go to the European School of Frankfurt (ESF). The complainants are native Spanish speakers. At the time when they enrolled their children in the ESF, there was no Spanish language section. The complainants therefore chose to enrol their children in the English language section [1] .

2. In January 2018, the ESF informed the complainants that the Board of Governors of the European Schools had decided to open a Spanish language section in the ESF, starting with pre-primary courses as of September 2018. This meant that, in accordance with the applicable rules [2] , the complainants´ younger child would be transferred to the newly created Spanish section.

3. The complainants asked the Director of the ESF to allow their daughter to remain in the English language section for what they regard as "*compelling pedagogical reasons*" (see footnote 2). The Director replied that the ESF "*[did] not see any compelling pedagogical reasons why a derogation from the rules should be accepted*".

4. The complainants appealed the decision before the Secretary General of the European Schools and the Complaints Board of the European Schools [3] . The appeals were not accepted.

5. The complainants turned to the European Commission, arguing that it had an obligation to control the European Schools. The complainants asked the Commission to look into the alleged irregularities in the case at hand.

The Commission's response to the complainants

6. The Commission replied that "*the opening of the Spanish section in Frankfurt followed the procedures foreseen by the European Schools system*". It added that one of the fundamental principles of the European Schools is the teaching in the mother tongue of the pupils (see footnote 1).

7. The complainants were not satisfied with the Commission's response and therefore



turned to the Ombudsman in January 2019, maintaining that the Commission had an obligation to control the European Schools.

The European Ombudsman's findings

8. The European School system is a form of cooperation between the EU Member States and between the Member States and the EU, based on an international convention [4] . In this context, the EU is represented by the European Commission. The Commission represents the EU on the Board of Governors of the European Schools, which also consists of representatives of all the Member States, the parents and the teaching staff. The role of the Board of Governors in educational matters is to determine which studies shall be undertaken and how they shall be organised [5] .

9. It is thus clear from the way in which the European Schools function, and the Commission's role in that context, that the Commission has no power to "control the European Schools" in the sense meant by the complainants, that is, to intervene in an issue related to the enrolment of an individual pupil. The Commission nevertheless replied to the complainants on the substance of their concern, explaining that it considers the rules and procedures of the European Schools to have been applied correctly in this case.

10. Based on the above, the Ombudsman finds no maladministration by the Commission in this case. [6]

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Strasbourg, 24/05/2019

[1] In accordance with Article 47e of the General Rules of the European Schools " *a fundamental principle of the European Schools is the teaching of mother tongue /dominant language as first language (L1). This principle implies the pupil's enrolment in the section of his/her mother tongue/ dominant language where such a section exists [...] In schools where the section corresponding to a pupil's mother tongue/dominant language does not exist, he/she will generally be enrolled in one of the vehicular language sections. He/She will attend the classes in his/her mother tongue/ dominant language organised for so-called SWALS (Students Without A Language Section) as L1* ". See: <https://www.eursc.eu/BasicTexts/2014-03-D-14-en-7.pdf>

[2] Article 47e of the General Rules of the European Schools " *Should a new language section be created, children previously enrolled with SWALS status and who had the language of this new section as their Language 1 will automatically be admitted to the newly created language section without the need for them to be required to take comparative language tests. In that case, a change of L1 may only be authorised by the Director for compelling pedagogical reasons, duly established by the Class Council and on the initiative of one of its members ."*



[3] Under articles 50a, 66 and 67 of the General Rules of the European Schools.

[4] Available at: https://www.eurasc.eu/BasicTexts/SW1_21994A0817-en.pdf

[5] Article 11 of the Convention defining the Statute of the European Schools.

[6] This complaint has been dealt with under delegated case handling, in accordance with Article 11 of the Decision of the European Ombudsman adopting Implementing Provisions