



EUAA/MB/2023/240

**Management Board Decision No 153
of 14 May 2024**

on the Early Warning and Preparedness System Databases access policy

THE MANAGEMENT BOARD:

HAVING REGARD to Regulation (EU) No 2021/2303 of the European Parliament and of the Council of 15 December 2021 establishing a European Union Agency for Asylum¹ (hereinafter ‘the EUAA Regulation’), and in particular Article 41(1)(o) thereof,

WHEREAS:

- 1) Pursuant to Article 5(1) of the EUAA Regulation, the Agency gathers and analyses information on the situation of asylum in the Union and in third countries insofar as it might have an impact on the Union, including up-to-date information on root causes, migratory and refugee flows, the presence of unaccompanied minors, the overall reception capacity and resettlement needs of third countries, and possible arrivals of large numbers of third-country nationals which might subject the Member States’ asylum and reception systems to disproportionate pressure, with a view to providing timely and reliable information to the Member States and to identifying possible risks to the Member States’ asylum and reception systems.
- 2) Pursuant to Article 5(3) of the EUAA Regulation, the Agency ensures the rapid exchange of relevant information among Member States and with the Commission. It also submits, in a timely and accurate manner, the results of its analysis to the Management Board, and reports on its analysis to the European Parliament twice a year.
- 3) Pursuant to Article 6(1), (2) and (3)(a) of the EUAA Regulation, the Agency organises, coordinates and promotes the exchange of information among the Member States and between the Commission and the Member States concerning the implementation of Union law on asylum. The Agency is required to create databases and web portals on Union, national and international asylum instruments, making use, in particular, of existing arrangements. No

¹ Regulation (EU) No 2021/2303 of the European Parliament and of the Council of 15 December 2021 establishing a European Union Agency for Asylum, (OJ L 468, 30.12.2021, p. 1).





personal data are to be stored in those databases or published on those web portals, unless such data has been obtained by the Agency from sources that are publicly accessible. The aforementioned databases and web portals are to have publicly accessible parts containing *inter alia* statistics on applications for international protection and on decisions taken by national authorities responsible for asylum matters.

- 4) Pursuant to Article 29(1) of the EUAA Regulation, the Agency facilitates the exchange of information relevant to its tasks with the Commission, the Member States and, where appropriate, the relevant Union bodies, offices and agencies.
- 5) Pursuant to Article 41(1)(o) of the EUAA Regulation, the Management Board shall, *inter alia*, take all decisions on the establishment and, where necessary, the development of the information systems provided for in the EUAA Regulation.
- 6) The principle of transparency and the rights of individuals to access documents of EU institutions, bodies and agencies are laid down in both Article 15 of the Treaty on the Functioning of the European Union (TFEU) and Article 42 of the Charter of Fundamental Rights of the EU² and implemented through Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (hereinafter 'Regulation (EC) No 1049/2001'). Article 63(1) of the EUAA Regulation states: '*Regulation (EC) No 1049/2001 shall apply to documents held by the Agency*'.
- 7) The Early Warning and Preparedness System (EPS) databases contain information exchanged between EU Member States and associate countries with which arrangements are in place pursuant to Article 34 of the EUAA Regulation (hereinafter 'EU+ countries') and the EUAA, focusing on key stages of the Common European Asylum System (CEAS). These databases include data on access to procedure, reception system, first instance determination, Dublin indicators, determination in appeal or review and resettlement. The EPS data contained therein consist of provisional data shared under short timelines and intended to give an estimation of the latest asylum trends across EU+ countries in as near to real time as possible.
- 8) Article 21 of the Decision of the Executive Director No 16 of 27 January 2023 on the code of good administrative behaviour and public service principles sets out how requests for information should be handled by the EUAA.
- 9) Management Board Decision No 6 of 20 September 2011 laying down practical arrangements regarding public access to the documents held by the Agency sets out how requests for public access to documents under Regulation (EC) No 1049/2001 should be handled by the EUAA.

² 2012/C 326/02, (OJ C 326, 26.10.2012, p. 391).

10) A policy should be adopted in the form of a Management Board Decision, in order to inform the public on the modalities of regulating access to the restricted and public sections³ of the EPS databases, as well as the resulting analytical products of the Agency,

HAS DECIDED AS FOLLOWS:

Article 1
EPS Databases Access Policy

1. The EPS Databases Access Policy (hereinafter ‘the Policy’), as annexed to this Decision, is hereby adopted.
2. The Policy defines the overall modalities for regulating access to the restricted and public sections of the EPS databases⁴, as well as the resulting EUAA analytical products, in line with the applicable legal framework.
3. The Executive Director may, on a case-by-case basis, decide to provide *ad hoc* access to the restricted section of the EPS databases, as well as the resulting analytical products of the Agency, to any other external stakeholders with whom the EUAA cooperates⁵, in line with the applicable legal framework. Such shall depend primarily on any need from the side of the EUAA to share such information for business-related reasons and may be accompanied by restrictions in terms of its further use by the recipient (e.g., as regards its onwards dissemination).

Article 2
Transparency

This Decision shall be made public on the EUAA’s website.

Article 3
Entry into force

This Decision enters into force on the date of its adoption.

³ For the purposes of this Decision, the term ‘public section of the EPS databases’ should be understood as the publicly available dedicated pages of the EUAA’s website.

⁴ For the purposes of this Decision, the term ‘EPS databases’ should be understood as solely encompassing EPS data provided to the EUAA by EU+ countries, i.e., excluding any open-source data.

⁵ E.g., EU institutions, bodies and agencies, as well as third countries and international organisations, which do not already have pre-existing access to the restricted section of the EPS databases, as well as the resulting analytical products of the Agency.



Done by written procedure

For the Management Board

Signature on file

Evelina Gudzinskaitė
Chairperson of the Management Board

Annex: EPS Databases Access Policy.

Annex

EPS Databases Access Policy

1. Background

The EPS databases mainly contain information exchanged between EU+ countries⁶ and the EUAA, focusing on key stages of the CEAS (hereinafter 'EPS data'). The EPS data consist of provisional data shared under short timelines intended to give an estimate of the latest asylum trends across EU+ countries in as near to real time as possible.

2. Principle of transparency

The principle of transparency and the rights of individuals to access documents of EU institutions, bodies and agencies are laid down in both Article 15 of the TFEU and Article 42 of the Charter of Fundamental Rights of the EU and implemented through Regulation (EC) No 1049/2001.

More specifically, Article 15(1) of the TFEU states: *'In order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible'*.

Moreover, Article 42 of the Charter of Fundamental Rights of the EU states: *'Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium'*.

Furthermore, Article 2(1) of Regulation (EC) No 1049/2001 states: *'Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, subject to the principles, conditions and limits defined in this Regulation'*.

The link between Regulation (EC) No 1049/2001 and the EUAA's legal framework is established by Article 63(1) of the EUAA Regulation, which states: *'Regulation (EC) No 1049/2001 shall apply to documents held by the Agency'*.

3. Restricted section of the EPS databases

The Agency and its Management Board confirm their joint commitment to upholding the principle of transparency, as referred to above. However, they consider that access to the restricted section of the EPS databases must be regulated for the following reasons:

⁶ EU Member States, plus associate countries with which arrangements are in place pursuant to Article 34 of the EUAA Regulation.

- a) The EPS databases include, *inter alia*, information that is not (meant to be) publicly available as it is deemed sensitive by EU+ countries, may be of a provisional nature only and in many cases, its interpretation requires enhanced knowledge of migration and asylum-related procedures;
- b) The information contained in limited sets of the (restricted) EPS data can eventually form part of national administrative procedures related to migration and asylum matters. The authorities of EU+ countries may provide relevant information to any other person or entity, such as applicants for asylum and national appeal instances, in accordance with the applicable national laws and rules. The EUAA does not have the competency and mandate to intervene in such cases;
- c) The EUAA relies heavily on EPS data originating from and being provided by EU+ countries in order for the Agency to be able to carry out regular analysis thereof for operational purposes. The purpose of assimilating and analysing such EPS data is to support internal and external EUAA stakeholders in taking informed decisions on common and concerted actions that are most likely to have sustainable effects on the management of the international protection situation and contribute to evidence-based policy making in the EU+ and individual EU+ countries.

In light of the above considerations, access to the restricted section of the EPS databases is, in principle⁷, limited only to designated staff members of the EUAA and to asylum and migration authorities of EU+ countries. Whereas the resulting EUAA analytical products will be shared with the European Commission, other EU justice and home affairs agencies, as well as asylum and migration authorities of EU+ countries, in line with the applicable legal framework.

4. Public section of the EPS databases

In order to facilitate transparency and good administration, any EPS data or resulting EUAA analytical products to which points (a), (b) and (c) of section 3 do not apply should, in principle, be made available to general users in the public section of the EPS databases (i.e., the publicly available dedicated pages of the EUAA's website). In particular, the following reporting measures shall apply with regard to the public release of EPS data at the level of individual EU+ countries⁸:

- a) To avoid instances whereby the EUAA publishes country-level data before the respective competent national authority has a chance to do so, the EPS country-level data will not be made public by the EUAA earlier than 30 days after the end of the respective reporting period;
- b) Publicly available EPS country-level data of low magnitude will be rounded up to the nearest five units to help ensure the complete anonymisation of any such data;

⁷ Notwithstanding that the EUAA may also decide to systemically share certain (categories of) EPS data with, *inter alia*, any EU institutions, bodies or agencies – subject to the prior conclusion of a dedicated working arrangement.

⁸ Whereas an indication of which particular categories of EPS data may form part of the publicly available information at country level, can be found in the Appendix to this Annex.

- c) Publicly available EPS country-level data will be limited to a rolling window consisting of the preceding 24 calendar months⁹;
- d) EPS country-level data will regularly and proactively be released publicly.

5. Regulation (EC) No 1049/2001

For the purposes of this Policy, it is moreover important to make a distinction between the different types of access requests relating to EPS data. Namely, individuals and/or entities could either:

- a) Request (full or partial) access to the EPS databases. Such requests should be dealt with as requests for information, as referred to in Article 21 of Annex 1 to the Decision of the Executive Director No 16 of 27 January 2023 on the code of good administrative behaviour and public service principles¹⁰;

or

- b) Request access to any specific (categories of) EPS data and/or any resulting EUAA analytical products by lodging an application for public access to documents under Regulation (EC) No 1049/2001.

Provided that:

- With respect to point a) above and pursuant to this Policy, access to the restricted section of the EPS databases is, in principle¹¹, limited only to designated staff members of the EUAA and to asylum and migration authorities of EU+ countries;
- With respect to point b) above, any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State may submit an application for public access to documents contained in the EPS databases, as well as any resulting analytical products of the EUAA. All existing documents (thereby also including any EPS data which can be routinely and normally extracted from the EPS databases) are covered by Regulation (EC) No 1049/2001. As such, any applications for public access to documents will be dealt with by the EUAA in accordance with

⁹ In light of, *inter alia*, the provisional nature of such EPS data.

¹⁰ Extract from Article 21 of the Decision of the Executive Director No 16 of 27 January 2023:

'1. Staff members shall, when they have responsibility for the matter concerned, strive to provide members of the public with the information that they request. When appropriate, they shall give advice on how to initiate an administrative procedure within their field of competence. They shall take care that the information communicated is clear and understandable.

2. If an oral request for information is too complicated or too extensive to be dealt with, staff members shall advise the person concerned to formulate his or her demand in writing.

3. If staff members may not disclose the information requested because of its confidential nature, they shall, in accordance with Article 17 of this Code, indicate to the person concerned the reasons why they cannot communicate the information.

4. Further to requests for information on matters for which they have no responsibility, staff members shall direct the requestor to the competent service of the EUAA and indicate its contact details. Further to requests for information concerning an EU institution, body or office or another EU agency, staff members shall direct the requestor to that institution, body, office or agency.

5. Where appropriate, staff members shall, depending on the subject of the request, direct the person seeking information to the service of the EUAA responsible for providing information to the public.'

¹¹ See footnote 7.

the provisions of the aforementioned Regulation, as well as Management Board Decision No 6 of 20 September 2011 laying down practical arrangements regarding public access to the documents held by the Agency.

Article 4 of Regulation (EC) No 1049/2001 provides for several exceptions¹² under which access can or shall be refused or limited. In this sense, it should be emphasised that all applications for public access to documents are duly examined and assessed by the EUAA, in an individual manner.

However, it should also be noted that the aforementioned general considerations for limiting access to the restricted section of the EPS databases may on a case-by-case basis also constitute (a) justified exception(s) to providing access to documents related thereto, in accordance with Article 4 of Regulation (EC) No 1049/2001. Further information on applications for public access to documents can be found on the dedicated section of the EUAA's website¹³.

¹² Extract from Article 4 of Regulation (EC) No 1049/2001:

'1. The institutions shall refuse access to a document where disclosure would undermine the protection of:

(a) the public interest as regards:

- public security,*
- defence and military matters,*
- international relations,*
- the financial, monetary or economic policy of the Community or a Member State;*

(b) privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

2. The institutions shall refuse access to a document where disclosure would undermine the protection of:

- commercial interests of a natural or legal person, including intellectual property,*
- court proceedings and legal advice,*
- the purpose of inspections, investigations and audits, unless there is an overriding public interest in disclosure.*

3. Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

Access to a document containing opinions for internal use as part of deliberations and preliminary consultations within the institution concerned shall be refused even after the decision has been taken if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure.

4. As regards third-party documents, the institution shall consult the third party with a view to assessing whether an exception in paragraph 1 or 2 is applicable, unless it is clear that the document shall or shall not be disclosed.

5. A Member State may request the institution not to disclose a document originating from that Member State without its prior agreement.'

¹³ Available at: [Public documents request | European Union Agency for Asylum \(europa.eu\)](https://euaa.europa.eu/public-documents-request)

Appendix

Publicly available EPS country level data

The following overview provides an indication as to which categories of EPS country-level data may proactively be included in the public section of the EPS databases (i.e., the publicly available dedicated pages of the EUAA's website).

Indicator	Breakdown
Asylum applicants	Citizenship
	Type of applicant
	Unaccompanied minors (UAM)
Pending cases at first instance	Citizenship
	Type of applicant
	Duration of pending
First-instance decisions	Citizenship
	Type of applicant
	Decision type
Withdrawn applications	Citizenship
	Type of applicant
	Type of withdrawal
Otherwise-closed cases	Citizenship
	Type of applicant
Resettlements (arrivals)	Citizenship
	Country of residence