

Athens, 11-19-2021

Prot. No.: 2642

DECISION 51/2021

(Department)

The Personal Data Protection Authority met in

composition of the Department via teleconference on 17-11-2021 upon his invitation

of its President, in order to examine the case mentioned in the history

of the present. George Batzalexis, Deputy President, was present.

obstructed by the President of the Authority, Constantinos Menoudakos, the regular members,

Konstantinos Lambrinoudakis,

Spyridon

Vlachopoulos, as rapporteur. The meeting was attended, by order of the President,

Kyriaki Karakasi, legal auditor - lawyer, as assistant rapporteur and

Irini Papageorgopoulou, employee of its administrative affairs department

Authority, as secretary.

Charalambos Anthopoulos and

The Authority took into account the following:

It was submitted to the Authority under no. prot. C/EIS/3758/08-06-2021 application of A,

with which the complainant requests the reconsideration of no. original C/EIS/1270/22-

02-2021 of his complaint, for which the act of 05-17-2021 was issued

filing (notified to him with G/EX/1238/18-05-2021 forwarding

Authority document).

In particular, it was submitted to the Authority with no. prot. G/EIS/1270/22-02-2021

complaint by A against Bank X. In the context of the above complaint the already

applicant states, among other things, that during the period from July to

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September 2020 was received with great frequency even within it daytime phone calls, either on his cell phone or on the cottage phone of the residence, by representatives or associates of the complained bank regarding debts from a consumer loan and service contract credit. According to the complainant, the above practice constitutes automated individual decision-making, according to Article 22 of the GDPR, including, he claims, profiling, while points out that the phone calls came from different numbers, and therefore more people were sharing the relevant information that he concerned, watching the habits of the residents in his house complainant. Finally, the complainant states that he has complained to complained bank as well as to the Banking Ombudsman.

the application and

Subsequently, the Authority, after examining the aforementioned complaint, issued it aforementioned from 17-05-2021 filing act insofar as the first was evaluated as vague, as it lacked rudimentary documentation of them projected. In particular, with the already challenged act it was established that from

the attached documents do not show that

automated individual decision-making/profiling has taken place

involving the complainant nor a violation of the complaint

right. In addition, the Authority pointed out to the complainant that if he wishes to exercise the rights referred to in his complaint (right

opposition/objections

downloading

decision/profiling concerning him) must be addressed beforehand

in the appropriate manner to the data controller (in this case to

reported bank), based on articles 21 and 22 GDPR, where these

are applied. Additionally, the Authority pointed out that the principles and framework within

of which the debtors must be informed (e.g. on which phone,

with what frequency, etc.). defined in Law 3758/2009, and in the General Secretariat

Trade and Consumer Protection is responsible for the general supervision of the activity

of the Debtors Information Companies (hereafter EEO) and the information

debtors, whether it is carried out by an EEO or by the lender itself (article 10

automated

individual

in

2

par. 1 of Law 3758/2009).

Subsequently, the complainant submitted the present action against the above act

with no. prot. C/EIS/3758/08-06-2021 application (treatment), with which, as well as

in no. prot. C/EIS/1270/22-02-2021 his complaint, claims that it was

automated individual decision-making/profiling, and that the

calls from the bank were made only to the cottage and not to the main one

his residence, for at least as long as he was in the first,

citing as documentation the above and the lists with the relevant calls

which he had also attached to his original complaint. He is attaching the documents

from which the communication that the complainant and already applicant had with her

complained bank, while also presenting the communication he had with him

Greek Financial Intermediary.

The Authority, after examining the elements of the file and after hearing him rapporteur and the clarifications of the assistant rapporteur, who (last) left after discussion and before conference and decision making, and afterwards thorough discussion,

CONSIDERED ACCORDING TO THE LAW

1. Because, article 2 par. 8 of Law 3051/2002 on the "Constitutionally protected independent authorities, modification and completion of the recruitment system at public sector and related regulations" issued in execution of article 101

A of the Constitution states that "8. Against the executive decisions of the independents authorities, a petition for annulment may be brought before its Council of State, as well as the administrative ones provided for in the Constitution and legislation refugees. Legal remedies against decisions of independent authorities may also be exercised by the relevant Minister". Article 24 par. 1 of Law 2690/1999 (KPDiad.) stipulates that "If the relevant provisions do not provide for the possibility of exercising, according to the following article, special administrative, or of appeal, the interested party, for material or moral restoration damage to his legitimate interests caused by individual administration

3

deed may, for any reason, with his application, request, either from administrative authority which issued the act, its revocation or amendment (request for treatment), either, from the authority that is in charge of the one that issued it act, its annulment (hierarchical appeal)". In its true sense provision, the treatment request aims to revoke or modify it contested individual administrative act for legal or factual defects of that which go back to the regime under which it was issued.

2. Because, with the above provisions of article 24 KDDiad. right is established

any "interested" manager, who has suffered material or moral damage from an individual administrative act, to appeal against the authority that issued art due to an act before resorting to judicial protection (simple administrative appeal, aka treatment request). This is an "informal" administrative appeal in contrast to the typical "special" and "unequivocal" appeals of the article 25 KDiad. This appeal requests the revocation or modification of the above-mentioned individual administrative act, in order to the material or moral damage to his legal interests is remedied applicant that the administrative act caused, in those cases where the the law does not provide for the possibility of exercising the above appeals article 25 KDDiad¹.

3. The issues raised with the treatment request, as set forth above in the history of the present, have been examined in the context of its publication contested filing act. In any case, the applicant did not does not plead or adduce material new evidence in support of his claims of automated individual decision-making against him. In particular, the submitted documents, relating to electronic correspondence of the applicant with representatives of both the complained bank as well as the Greek Financial Ombudsman, do not prove the denounced and do not shake what was accepted by the contested act of the Authority.

4. Therefore, the Authority adheres to the filing act dated 05-17-2021 which forwarded to the already applicant with no. prot. C/EX/1238/18-05-2021

¹ See, for example, no. 73/2018 Decision of the Authority.

document, in the reasons of which it is mentioned.

FOR THOSE REASONS

Rejects A's treatment request.

The Deputy President

George Batzalexis

The Secretary

Irini Papageorgopoulou