

3. the authority of the Member State concerned is competent to decide on such a request?

(If Question 3 is answered in the affirmative)

4. the (national) judicial protection against such a decision is sufficient where it is not afforded to everyone but only to the economic operator affected by the (obligatory) measure against the (obligatory) measure taken by the authority?

⁽¹⁾ OJ 2002 L 11, p. 4.

⁽²⁾ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ 2008 L 218, p. 30).

⁽³⁾ Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny — Adaptation to the regulatory procedure with scrutiny — Part Four (OJ 2009 L 188, p. 14).

⁽⁴⁾ OJ 2019 L 73, p. 121.

**Request for a preliminary ruling from the Verwaltungsgericht Wiesbaden (Germany) lodged on
15 October 2021 — OQ v Land Hesse**

(Case C-634/21)

(2022/C 37/19)

Language of the case: German

Referring court

Verwaltungsgericht Wiesbaden

Parties to the main proceedings

Applicant: OQ

Defendant: Land Hesse

Joined party: SCHUFA Holding AG

Questions referred

1. Is Article 22(1) of Regulation (EU) 2016/679 ⁽¹⁾ to be interpreted as meaning that the automated establishment of a probability value concerning the ability of a data subject to service a loan in the future already constitutes a decision based solely on automated processing, including profiling, which produces legal effects concerning the data subject or similarly significantly affects him or her, where that value, determined by means of personal data of the data subject, is transmitted by the controller to a third-party controller and the latter draws strongly on that value for its decision on the establishment, implementation or termination of a contractual relationship with the data subject?
2. If Question 1 is answered in the negative, are Articles 6(1) and 22 of Regulation (EU) 2016/679 to be interpreted as precluding national legislation under which the use of a probability value — *in casu*, in relation to a natural person's ability and willingness to pay, in the case where information about claims against that person is taken into account — regarding specific future behaviour of a natural person for the purpose of deciding on the establishment, implementation or termination of a contractual relationship with that person (scoring) is permissible only if certain further conditions, which are set out in more detail in the grounds of the request for a preliminary ruling, are met?

⁽¹⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).