

Our Ref: FN / 60052.1

Yur Ref: IC-79544-J6V

**Sent via email:**

Richard Neal

Lead Case Officer

Information Commissioner's Office

Emma Bate

Director of Legal Services

Information Commissioner's Office

London | Cambridge | Oxford | Hong Kong | Singapore

27 April 2025

Dear Mr Neal

Dear Emma

**FATCA | New decision by the Belgian DPAs confirms the validity of Jenny's complaint**

Some breaking news:

**1. Belgian DPA decision dated 24 April 2025**

In addition to Jenny's UK GDPR complaint against HMRC, there is a separate GDPR complaint filed by the Association of Accidental Americans before the Belgian DPA.

You are already aware of the 77-page long decision issued in May 2023, by which the Belgian DPA declared a FATCA Agreement to be in breach of basic GDPR principles.

Last week, following a procedural appeal, the Belgian DPA reconfirmed its previous decision and I attach a copy of the 96-page long decision (translated from French) together with an 11-page long summary that we prepared.

**2. Implications for Jenny's case**

It is comforting to see that, pretty much like Emma did in her decision dated 29 May 2020, the Belgian DPA found that the local tax authority violated its transparency obligations. Save that Belgian DPA felt that this is a particularly serious breach, because without proper information people like Jenny are left in the dark about the exact scope of the processing of their data, let alone their rights under the GDPR / [UK] GDPR.

The attached decision is also a vindication of Jenny's argument (fleshed out in [our letter](#) to the ICO dated 6 March 2019) that FATCA Agreements do not contain any of the safeguards required under the relevant legislation, notably:

- the Data Protection Act 1998 (DPA), which implemented the old Data Protection Directive; and
- Art. 46 GDPR / [UK] GDPR.

This was an important point raised in the *Schrems II* case, which is what prompted the ICO to start a review of its decision of 29 May 2020, and remains relevant under the [UK] GDPR.

Overall, the Belgian decision confirms the validity of all grounds raised by Jenny in her complaint and you will see that, like HMRC in Jenny's case, the Belgian State decided to resort to a procedural battle to try and frustrate a valid complaint.

3. **An increasingly desperate situation in the US**

Please know that -

- the Acting IRS Commissioner;
- the Chief Risk Officer;
- the Chief Privacy Officer; and
- the Chief Counsel expert on taxpayer data confidentiality

all tendered their resignations/retirements in response to the proposed data sharing between IRS and the Immigration office.

Therefore, data protection regulators should really reconsider the IRS's ability to protect the data it gets from these agreements.

4. **Requests**

In light of the Belgian decision and developments in the US, I would now ask the ICO to bring its enquiries to a swift conclusion and issue a new decision confirming HMRC's violations of basic data protection principles.

Best regards,

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Partner

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