

Ms Anu Talus - EDPB Chair
National DPAs (via EDPB Secretariat)
 Brussels

Cc: PETI, EU FATCA Petitioners

Africa House
 70 Kingsway
 London WC2B 6AH
 DX 37954 Kingsway
 T: +44 20 3321 7000
 www.mishcon.com

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FATCA | More evidence of inconsistent application of GDPR within the EU

For years now, [EU FATCA Petitioners](#) and other campaigners have been running an uphill battle to raise concerns over the data protection and data security implications of FATCA.

These "worrying" data protection concerns have been routinely backed by the EDPB's predecessor (the [WP29](#)), the [European Parliament](#) (also [here](#)), the [previous European Commission](#), as well as the Belgian data protection authorities, whose [73-page long](#) decision in 2023 and more recent [96-page long](#) decision has finally led to the issue being referred to the European Court of Justice ([C-804/25](#)), amidst a [worsening legal data protection framework](#) in the US (a particularly relevant factor under [Art. 46](#) GDPR).

Throughout this period the EDPB has kept a low profile, [refusing](#) to follow the lead of its predecessor, and [abdicating its duty](#) to ensure the [consistent application](#) of the GDPR.

However, recent statements from members of the EU data protection community [confirm](#) the intolerable status of affairs, which will come back to haunt the EDPB and its Chair.



Agostino Ghiglia
Commissioner and Board Member, Italian Data Protection Authority

15 April 2026

*The **GDPR** does not prohibit transfers. But it makes them conditional on a very **demanding promise**: that the level of protection remains, in substance, equivalent.*

*For years, **we pretended that promise was easily kept**. We built a system of clauses, guarantees and checks. All formally correct.*

But [w]hen data enters legal systems that allow broad access by public authorities, or impose reporting obligations that are difficult to limit, that 'equivalence' ceases to be a certainty and becomes merely a statement of intent.

The Schrems II ruling simply put into writing what was already suspected: guarantees on paper are not enough if the context renders them meaningless.

*It is within this scenario that the **FATCA** fits... Here the flow is continuous, systemic. And it becomes difficult to reconcile it, fully, with the European principles of proportionality and minimisation. The authorities are revisiting these mechanisms, the international context has changed, and some certainties we took for granted are beginning to waver.*

*One fact remains, and it is rather simple. Within the EU, we are building an increasingly sophisticated protection system. When **data leaves the EU**, that system is not always able to keep track of it effectively. Can we continue to talk about '**data protection**' if, the moment that data crosses a border, control becomes **largely theoretical**.*

Best regards,

Filippo Nosedà
 Partner