

European Parliament
Ms. Dolors Montserrat MEP
Chair - Petitions Committee (PETI)

14 January 2022

c/o PETI Secretariat
Rue Wiertz 60
1047 Brussels
Belgium

By post & email

FATCA – Joint Petitioners' Statement

Dear Ms Montserrat,

We are the authors of petitions [1088/2016](#); [1470/2020](#); [0394/2021](#) and [0323/2021](#), which have attracted over 1,000 supporters. Some of us also filed individual GDPR complaints with the relevant national Data Protection Authorities (**DPAs**).

We have been following with increasing dismay the obstructive behaviour shown by the European Commission, the lack of incisiveness displayed by the EDPB and the unwillingness shown by national DPAs to exercise [intervention powers under Art. 58 GDPR](#)¹ (which includes a power to take legal proceedings against data processors) in connection with our concerns and individual GDPR complaints.

The DPAs have been able to avoid action thanks to the lack of incisiveness from the EDPB, whose [mission statement](#)² consists of "ensuring the consistent application of European data protection rules across the EU". However, instead of ensuring the application of the GDPR in relation to FATCA, the EDPB limited itself to [issuing a toothless 'invitation'](#)³ to EU Member States to review their bilateral IGA agreements, thus providing political cover for national DPAs wishing to avoid an inconvenient subject.

Most alarmingly, the European Commission seems to have misled the European Parliament on its involvement in the historic negotiations with the US and the existence of worrying data protection concerns (as evidenced by internal [documents unearthed by Sophie in 't Veld MEP](#)⁴ and [discussed at length by Mishcon de Reya](#)⁵.

¹ <https://gdpr-info.eu/art-58-gdpr/>

² https://edpb.europa.eu/sites/default/files/files/file1/mission_statement_en.pdf

³ https://edpb.europa.eu/system/files/2021-04/edpb_statement042021_international_agreements_including_transfers_en.pdf

⁴ <https://www.ombudsman.europa.eu/en/decision/en/65927>

⁵ <https://www.mishcon.com/news/correspondence>

The European Commission has continually refused to acknowledge the issues or act upon them. This is evident in its failure to respond to criticism levelled by the European Parliament in [Resolution P9_TA\(2021\)0256](#)⁶, and in the disingenuous response given by Commissioner Paolo Gentiloni to a Parliamentary question (question reference [E-004907/2021](#)⁷). We are led to believe that the European Commission is succeeding in frustrating the work carried out by the European Parliament since FATCA was put on the agenda in 2016.

We therefore invite you to take urgent action to restore our faith in the democratic process embodied by the right to petition, "[one of the fundamental rights of all European citizens and residents, enshrined both in the Treaty and in the Charter of Fundamental Rights](#)"⁸.

We agree with the European Parliament's assessment, made as recently as 20 May 2020, that the "*Commission is putting the relations with the US before the interests of EU citizens, thereby leaving the task of defending EU law to individual citizens.*"

It is readily apparent that this remains the case, and the question is quickly turning from "when will Parliament act" to "what other fundamental rights may be suspended at the request of trading partners?"

We believe that the time has come for the European Parliament and the Petitions Committee to seriously increase and escalate its efforts to hold the European Commission to account, up to and including the submission of a Motion of censure on the Commission under [Article 234 TFEU](#). The Commission routinely shows a distinct unwillingness to defend the rights of Europeans and to protect the rule of law, making it wholly unfit for its role as Guardian of the Treaties.

Yours sincerely,

J.B. (NL)
S.B. (NL)
G.L. (FR)
R.G. (NL)
J.R. (FR/IE)
R.A. (NL)
N.L. (IT)



 S.B. (NL)



 R.G. (NL)



 R.A. (NL)

 N.L. (0394/2021)

⁶ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0256_EN.html

⁷ <https://protect-eu.mimecast.com/s/zXrSCQ13nTgjg4ktx7lgX?domain=europarl.europa.eu>

⁸ <https://www.europarl.europa.eu/petitions/en/home>