

PRESS RELEASE

Victory for Accidental Americans: FATCA and its compliance with the GDPR finally examined by the CJEU

Brussels / Paris [12/04/2025] — The Association of Accidental Americans (AAA) welcomes today's decision by the Belgian Court of Markets to refer a request for a preliminary ruling to the Court of Justice of the European Union (CJEU) concerning the interpretation of Article 96 of the GDPR and the compatibility of the FATCA regime with EU law.

This referral marks a historic moment, awaited for eight years by Accidental Americans and by all those unjustly affected by the transfer of their tax data to the United States. For the first time, the CJEU will have to answer several questions that concern not only the FATCA regime but also any large-scale tax-related data-collection mechanism and the transfer of such data to third countries. One key question is whether EU Member States may continue to rely on the transitional framework provided under the GDPR to avoid assessing their international agreements concluded before the GDPR's adoption in light of the GDPR. Additional questions will follow on whether FATCA is compatible with the GDPR rules on data transfers to non-EU countries, including whether the EU-US Data Privacy Framework is relevant in this context. Another important question is whether collecting data for tax purposes in the absence of any indication of fraud or tax evasion complies with the principle of data minimisation.

A decisive step after eight years of resilience

Since 2017, the AAA has been warning Belgian, European, and U.S. institutions about FATCA-induced GDPR violations: disproportionate measures, lack of proportionality, systematic data transfers to a third country, insufficient safeguards, and structural discrimination.

During these eight years, the association has had to demonstrate exceptional resilience in the face of silence, inaction, and political obstruction.

Today, the Court of Markets recognises the urgent need to clarify the law, putting an end to years of legal uncertainty and institutional buck-passing. The referral to the CJEU represents a clear victory of the law over the political and diplomatic considerations that have prevailed for far too long.

A strong signal to the European Union

This decision also marks a turning point for EU institutions.

For eight years, the European Commission, the EDPB, national authorities, and several governments have been informed of the GDPR violations caused by FATCA. Yet no concrete action had been undertaken.

The referral to the CJEU now places the European Union before its responsibilities: it must decide whether the fundamental rights of EU citizens may be sacrificed in the name of an imbalanced bilateral agreement concluded with a third country.

Statement by Fabien Lehagre, President of the Association of Accidental Americans

“We have been waiting for this moment for eight years—eight years of work, determination, and resilience so that the law would finally be enforced and the CJEU would be asked to rule on this fundamental issue. Today marks a victory of the law over politics. We welcome the decision of the Court of Markets, which ushers this case into a new historic phase.”

Statement by Vincent Wellens, NautaDutilh, counsel for the AAA

“The referral to the CJEU is a major step forward. It will allow clarification of whether EU Member States may maintain data-collection practices and international data transfers for tax purposes when they do not comply with the GDPR’s requirements, particularly its provisions on international transfers and its principles of data minimisation and transparency. These questions have never been settled, and their examination by the CJEU represents a crucial step for the protection of fundamental rights in Europe.”

About the Association of Accidental Americans (AAA)

Founded in 2017, the AAA is a Paris-based association created by Fabien Lehagre to defend Accidental Americans against the harms they suffer as a result of FATCA and Citizenship-Based Taxation. It now has more than 1,500 members. The millions of Accidental Americans worldwide are individuals who acquired U.S. citizenship by accident of birth. Many have never lived in the United States beyond early childhood, have never worked or studied there, and often do not even have a U.S. Social Security number. The term “Accidental American” did not exist before FATCA’s entry into force. Until then, most of these individuals were unaware that they were U.S. citizens—and therefore taxpayers. Eritrea is the only other country in the world that bases its tax system on citizenship rather than residence.

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