



Commissioner Michael McGrath
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Paris, 17 December 2025

Subject: FATCA, transfers of personal data to third countries and inter-service coordination within the Commission

Dear Commissioner McGrath,

I am writing to you in my capacity as President of the Association of Accidental Americans, an organisation committed to defending the rights of European citizens affected by the implementation of the FATCA agreement.

I am writing to you regarding the exchange of tax information with third countries under the FATCA framework, in light of recent judicial and institutional developments that raise important questions concerning the protection of personal data under EU law, as well as the internal coordination of the Commission's services.

As you are aware, the European Parliament has been engaged on this issue for several years. Following petitions submitted by EU citizens, Parliament adopted on 5 July 2018 a resolution on the detrimental effects of FATCA on EU citizens (2018/2646(RSP)¹), expressing serious concerns regarding respect for fundamental rights, the protection of personal data, the lack of reciprocity of FATCA agreements, and their compatibility with EU law. In the wake of that resolution, the Committee on Petitions commissioned two in-depth legal studies, published in 2018² and again in 2022³, the latter expressly intended to assess developments since 2018. The 2022 study confirmed that the core legal issues previously identified remained unresolved and underlined that they could not be adequately addressed through purely technical or ancillary instruments.

More recently, these concerns have taken on a concrete judicial dimension. On 24 April 2025, the Belgian Data Protection Authority adopted an enforceable decision⁴ finding that data transfers

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018IP0316>

² [https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604967/IPOL_STU\(2018\)604967_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604967/IPOL_STU(2018)604967_EN.pdf)

³ [https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/734765/IPOL_IDA\(2022\)734765_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/734765/IPOL_IDA(2022)734765_EN.pdf)

⁴ <https://www.autoriteprotectiondonnees.be/publications/decision-quant-au-fond-n0-79-2025.pdf>

carried out under FATCA were contrary to Regulation (EU) 2016/679 (GDPR), while granting a compliance period expiring on 24 April 2026. In addition, by an interlocutory judgment of 26 November 2025, the Brussels Market Court referred several preliminary questions⁵ to the Court of Justice of the European Union concerning, inter alia, the compatibility of the FATCA regime with EU law, the principles of proportionality and data minimisation, and the legal framework applicable to transfers of personal data to third countries.

Against this background, recent public analyses, including in specialised international tax publications, have reported on reflections and initiatives at EU level aimed at framing or “securing” exchanges of tax information with third countries. While such initiatives are presented as ways of mitigating legal risks in light of the Court of Justice’s case law, they raise an important question of institutional method: namely, how to ensure that measures developed in the context of tax cooperation do not, in practice, pre-empt or neutralise the legal consequences that may follow from judicial findings on the validity or applicability of FATCA intergovernmental agreements under EU law.

In this context, I would be grateful if you could clarify how the Commission intends to ensure that any initiative relating to exchanges of tax information with third countries that has implications for transfers of personal data is fully coordinated with, and substantively led by, the services responsible for data protection and fundamental rights, and in particular DG JUST. More specifically, I would welcome clarification on how the Commission ensures that such initiatives fully respect the GDPR, the jurisprudence of the Court of Justice, and the institutional role of the Court, especially where preliminary ruling proceedings are pending.

This clarification appears particularly important in order to ensure coherence with the positions previously expressed by the European Parliament, the conclusions of the studies commissioned by the Committee on Petitions, and the findings of independent national data protection authorities.

I am sending this letter with a copy to Commissioner Maroš Šefčovič, Commissioner for Trade and Economic Security, Interinstitutional Relations and Transparency, given the cross-cutting nature of this matter.

Thank you very much for your attention to this issue. I would be grateful for your written response.

Yours sincerely,

Fabien Lehagre
President of the Association of Accidental Americans

cc: Commissioner Maroš Šefčovič

⁵ <https://autoriteprotectiondonnees.be/publications/arret-interlocutoire-du-26-novembre-2025-de-la-cour-des-marches-2025-ar-887.pdf>