

Our Ref: FN / 60052.1

Ms Anu Talus
EDPB Chair

Mr Aleid Wolfsen
AP Chair

London | Cambridge | Oxford | Hong Kong | Singapore

27 August 2024

Dear Ms Talus and Mr Wolfsen

FATCA | Two-headed Janus

I write further to our [previous correspondence](#), and in particular our letter dated [2 July 2024](#) on the scope of the EDPB's powers.

As I am sure that you will know, the Dutch data protection authority (AP) has imposed a [€290m fine](#) against Uber because of transfers of drivers' data to the US. The AP's press release provides the following information:



AUTORITEIT
PERSOONSgegevens

Dutch DPA imposes a fine of 290 million euro on Uber because of transfers of drivers' data to the US

26 August 2024 Themes: [Transfer within and outside the EEA](#)

"In Europe, the GDPR protects the fundamental rights of people, by requiring businesses and governments to handle personal data with due care", Dutch DPA chairman Aleid Wolfsen says. "But **sadly, this is not self-evident outside Europe. Think of governments that can tap data on a large scale.** That is why businesses are usually obliged to take additional measures if they store personal data of Europeans outside the European Union. Uber did not meet the requirements of the GDPR to ensure the level of protection to the data with regard to transfers to the US. That is very serious."

In other news, the AP has been unwilling to seriously investigate a complaint brought by Dutch nationals against the transfer of their personal data to the US under FATCA, notwithstanding [compelling studies](#) and [opinions](#) that this is also in violation of the GDPR.

As far as the AP is concerned, this amounts to amounts to hypocrisy and ineptitude. And as far as the EDPB is concerned, this news confirms the inconsistent application of the GDPR, which is at the [core](#) of the EPDB's powers. The EDPB's unwillingness to exercise those powers in relation to transfers of data from the EU to the US shows a politically motivated body, with potentially dangerous repercussions for EU citizens' fundamental rights.

Please can you ensure that FATCA is at the centre of the EDPB's agenda and discussions with national DPA.

Filippo Nosedà
Partner