

**EDPB**  
**National DPAs (via EDPB Secretariat)**  
Brussels

Cc: PETI, EU FATCA Petitioners

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## FATCA | Art. 46 GDPR – More evidence of lower data protection safeguards

This week's article in the [New York Times](#) confirms what the [European Commission/Parliament](#), as well as [campaigners](#) had been saying for years, notably that the US has lower standards of data protection – punching a hole in Art. 46 GDPR:

### ‘ The New York Times

#### Trump Seeks to Paralyze Independent Privacy and Civil Liberties Watchdog

##### Trump Administration

Jan. 22, 2025



The board also plays a key role in [an agreement between the United States and the European Union](#), which allows businesses to transfer Europeans' personal data to the United States in part because the board exists as a check on surveillance practices and can oversee a process of addressing complaints from Europeans about any misuse of their data. ’

The EDPB has a [duty](#) to ensure the consistent application of the GDPR, something the EDPB acknowledges but [fails](#) to uphold. (In the context of FATCA there is overwhelming evidence of a an inconsistent (and inexistent) application of the GDPR)<sup>1</sup>.

It is time for the EDPB to shake off its torpor, emerge from its long Finnish winter and finally intervene to uphold the fundamental rights of millions of affected EU citizens. At the very minimum, it should expressly confirm the application of [Guideline 2/2024](#) to FATCA, and actively engage with data protection campaigners and EU FATCA Petitioners.

**Filippo Noseda**  
Partner

<sup>1</sup> [Belgium](#), [France](#), [Germany](#), the [Netherlands](#) (see also [here](#)), [Slovenia](#), [Slovakia](#) and [Sweden](#). The Swedish position is particularly interesting, because the IMY first took [one position](#), and then the [opposite](#) one, showing the lack of consistency even within single EU Member States. The Commission, too, took [conflicting](#) over time, showing the lack of a consistent application of the GDPR in relation to FATCA.