

# 'Accidental Americans' Ask European Parliament for FATCA Answers

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The European Parliament will request a solution from the European Commission on ongoing issues related to the U.S. Foreign Account Tax Compliance Act and EU data privacy.

The EP's Committee on Petitions held a public hearing November 12 on "FATCA and its extraterritorial impact on EU citizens" to further discuss [Petition No. 1088/2016](#) on FATCA and its alleged conflict with EU laws, including the evolving EU data protection framework, which was filed in 2016.

The hearing in Brussels was attended by 25 so-called accidental Americans, who had traveled from countries including Austria, Belgium, France, and the Netherlands. Accidental Americans are those with negligible ties to the United States, including nationals residing overseas who are U.S. citizens because they were born on American soil or were born abroad to American parents.

Filippo Nosedà, a partner at Mishcon de Reya LLP and a visiting professor at King's College, shared the opinion of many panelists, stating that the commission needs to step in to make FATCA more workable and proportionate in relation to human rights. The concept of proportionality is a key point in the petition, according to the petitioner, who emphasized the U.S. law's infringement on EU citizens' data privacy rights and the lack of the commission's participation in finding a solution.

The petitioner also posed a question regarding the costs of FATCA on EU institutions. He noted the high costs that EU financial institutions must "stomach" to stay compliant with the IRS. According to the petitioner, the commission needs to propose negotiations with the United States not only for purposes of defending EU citizens' data privacy rights, but also to protect EU financial institutions.

The petitioner said countries such as the Netherlands and France are taking actions in response to the unjust consequences of FATCA on accidental Americans. In May the Netherlands sent a [Dutch financial official to Washington](#) to discuss issues faced by Dutch citizens as a result of the implementation of FATCA. The petitioner stated that the United States has acknowledged the existence of accidental Americans as a result of countries' outreach efforts. He said he hopes the commission will learn from this that the United States will listen and respond to other countries' concerns.

Alisa Vekeman of the European Commission said that member state authorities and EU financial institutions remain fully subject to the EU General Data Protection Regulation (GDPR) and must comply with data protection principles and data transparency.

Vekeman, a policy officer for international data flows and protection at the commission's Directorate-General for Justice and Consumers, noted that [in July France's highest court](#) decided that the FATCA intergovernmental agreement between France and the United States did not violate the GDPR or the Charter of Fundamental Rights of the European Union. She added, however, that a few weeks ago, [the commission received a new complaint](#) regarding the agreement, which is being assessed according to the commission's usual procedures.

Committee on Petitions Chair Dolors Montserrat confirmed that the committee is in agreement that FATCA issues must be resolved, and that it will provide the commission with the information and proposals discussed during the hearing. Sophie in 't Veld, a Dutch member of the EP from the Renew Europe group, said the EP needs to write to the commission as quickly as possible to keep the pressure on the commission to protect EU citizens.