

From:
Nicholas Lee



To:
t.a.v. Minister van Financiën
Belastingdienst
Postbus 14
6400AA Heerlen

Onderwerp: Bezwaarschrift beslissing inzageverzoek FSV

I am writing in response to a reply from the Belastingdienst dated 9 September 2021 in response to a GDPR request sent on July 5 2021.

My original request sought the following:

- All personal information previously transferred by the Belastingdienst / Finance Ministry to any non-EU jurisdiction such as the United States
- Access to any personal information that is to be transferred to the United States prior to any and all future transfers that occur under the United States – Netherlands FATCA-IGA.
- The opportunity to rectify any erroneous information prior to transfer to the United States, noting that there is no adequate redress should the United States take incorrect action based on incorrect information; something clearly affirmed by the Schrems II CJEU ruling.

It was noted in the original letter that the United States Internal Revenue Service flatly rejects equivalent protections under the General Data Protection Regulation, having previously rejected subject access requests from European Union residents. Since then, the United States has more specifically stated that it is unable to respond to any Subject Access Requests seeking a copy of data received under FATCA IGAs.

The September 9 response provided on behalf of the Finance Minister is wholly nonresponsive to the original request, referencing a system (FSV) not referred to in any of my prior correspondence, that is not in use, and is not by any public account related to the implemented FATCA IGA and the imminent data transfer that your office has stated will occur by the end of September.¹ At no point did I inquire whether my information was in the FSV.

Given the wholly incorrect response to the request, the significant delays incurred by the Belastingdienst's request for additional processing time, and the imminent transfer of data that may be erroneous and which is likely non-minimised in compliance with GDPR², **I request that the Belastingdienst process the original request with urgency and with a focus on the US-NL FATCA IGA, also providing the opportunity to rectify any errors prior to data transfer to the United States.**

Noting the probability that this request will not be processed early enough to amend any erroneous or non-minimised data prior to the intended data transfer to the United States, I must inform you that I have filed a formal objection to the processing & transfer of my personal data, providing additional detail demonstrating non-compliant behaviour at both the Belastingdienst and the Internal Revenue Service.

¹ Further underscoring the nonresponsiveness of the GDPR request being processed as an FSV information request, a system discontinued in 2020 will not relate to a data transfer that has been stated to be occurring in the next three weeks.

² Evidenced by the recent letter to the Tweede Kamer:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2021/09/03/kamerbrief-cijferrapportage-fatca/kamerbrief-cijferrapportage-fatca.pdf>

I would like to believe that the Netherlands is a country where the rule of law exists, even when it is politically inconvenient. This belief is challenged though, by the outright refusal of the United States to meaningfully respond to a request for information sent from the Netherlands & the non-sequitur response from the Belastingdienst when identical information was requested.

To a member of the public, it appears that the Finance Ministry has taken the position that avoiding difficult conversations with a close trading partner supersedes European Union law, despite all EU Residents being entitled to equal protection.

Respectfully,

Nicholas Lee

BSN: 

13 September 2021