



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

May 18, 2020

By E-mail

[addressee deleted]

Re: Request for an Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [name deleted]:

This is in reference to your e-mail messages of April 22, 2020 and May 1, 2020, in which you request an advisory opinion, pursuant to 28 C.F.R. § 5.2, regarding your possible obligation to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”). Based on our review of your request, we have determined that you do not have an obligation to register under FARA.

According to the April 22, 2020 e-mail, you made a humanitarian aid request to the [foreign embassy], asking whether it had personal protective equipment (“PPE”) that it could donate to [US hospital] because of the shortage of PPE at the hospital as it responds to the COVID-19 pandemic. On April 21, 2020, the [foreign Ambassador]’s staff responded that it approved the request and would forward it to [foreign country]. You also informed us that your contact at the [foreign embassy] told you that he would send a letter to you confirming your request and your conversation with him concerning this request. You further informed us that the U.S. Department of State’s [foreign country] desk officer was copied on your humanitarian request to the [foreign country]. In a later communication to the FARA Unit, you indicated that you would not be involved in any media or public relations on behalf of the [foreign country] as it concerns this humanitarian donation.

Generally speaking, save certain exemptions, a party is an “agent of a foreign principal” that must register under FARA if it acts “in any . . . capacity at the order, request, or under the direction or control, of a foreign principal or of a person any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal and who directly or through any other person,” and within the United States:

- (i) engages in political activities for or in the interests of such foreign principal;
- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
- (iii) solicits, collects, disburses, or dispenses contributions, loans, money, or other things of value for or in the interest of such foreign principal; or

[name deleted]

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(iv) represents the interests of such foreign principal before any agency or official of the Government of the United States.

See 22 U.S.C. § 611(c)(1).

Although the [foreign country] and its Embassy are a “foreign principal” as defined by the Act, 22 U.S.C. § 611(b)(1), we have determined that you are not considered an “agent of a foreign principal” as set forth in FARA. Our determination is based on the fact that according to your communications with our office, you are not acting at the order, request, direction, or control of the Government of the [foreign country] in engaging in the above-described activities. *See* 22 U.S.C. § 611(c)(1).

Please note that our opinion is based solely upon the facts set forth in your communications to our office, and must be revisited in the event that any of the facts change. In particular, you may need to register under FARA if you undertake activities on behalf of the Government of the [foreign country] with an intent to influence, in any way, a U.S. Government official or agency or a segment of the public within the United States concerning the domestic or foreign policy of the United States or the political or public interest, policies, or relations of any foreign government.¹ If any of the facts change, you should contact the FARA Unit immediately in order that we may reexamine whether they have an obligation to register.

If you have any questions regarding this matter, please contact [name deleted] by telephone at (202) 233-0776.

Sincerely,

/s/ Brandon Van Grack

Brandon L. Van Grack
Chief, FARA Unit

¹ The Act defines “political activity” as “any activity that the person engaging in believes will, or that the person intends to, in any way influence any agency or official of the Government of the United States or any section of the public within the United States with reference to formulating, adopting, or changing the domestic or foreign policies of the United States or with reference to the political or public interests, policies, or relations of a government of a foreign country.” 22 U.S.C. § 611(o).