



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

March 19, 2021

Via Email to [Recipient e-mail address]

[Name]

[Address]

Re: [Name]
Request for Advisory Opinion Pursuant to 28 C.F.R. § 5.2

Dear [Name]:

We write in response to your e-mail communication of February 19, 2021, in which you request an opinion, pursuant to 28 C.F.R. § 5.2(a), with respect to your obligations under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”). Based upon the representations made in your submission, we have determined that you are not acting as “an agent of a foreign principal” pursuant to Section 611(c) of the Act in connection with your editing of an article authored by [Foreign Advisor], a senior advisor to [Foreign Government Leader], that is to be submitted for publication in the United States.

According to your submission, you have recently been asked by [Foreign Advisor] to review an article he has drafted and will be submitting for publication by a “major U.S. journal” under [Foreign Advisor’s] name as author. You note that the subject matter of the article would be an attempt to counter what you characterize as the negative press that [Foreign Country] is subject to by presenting positive perspectives of a struggling nation with political challenges and by calling attention to what you reference as [Foreign Country’s] history of perseverance that has shaped its unique culture. According to your submission, your role in editing the draft article would be limited to checking grammar, style, and organization. You have not been asked to alter or advise on the basic content of the piece which seeks to present [Foreign Country] in a positive light. You emphasize in your submission that this is a voluntary effort (there is no contract or remuneration) on your part in response to a request by [Foreign Advisor], based on his awareness that you have previously published numerous articles about [Foreign Country] and [Foreign Country’s] history.

As a preliminary matter, a party is an “agent of a foreign principal,” who must register under FARA, if it acts “in any . . . capacity at the order, request, or under the direction or control, of a foreign principal *and* within the United States, “engages in political activities” or other activities enumerated under the Act. 22 U.S.C. § 611(c)(1).

As a Government of [Foreign Government] official, [Foreign Advisor] is a foreign principal under the Act. 22 U.S.C. § 611(b). As noted in your submission, you are intending to

act at the “request” of [Foreign Advisor], though there is no contract or compensation you will receive. Acting at the “request” of a foreign principal is sufficient to establish the requisite agency relationship under FARA. *Attorney General of U.S. v. Irish N. Aid Comm.*, 668 F.2d 159, 161 (2d Cir. 1982). In order to determine whether you have an obligation to register under FARA, it is then necessary to determine whether you have engaged in “political activities”¹ or one of the other activities outlined in 22 U.S.C. § 611(c)(1)(i)-(iv). Because you have represented that your activities will be limited to reviewing and editing the proposed article, to be drafted and authored by [Foreign Advisor], for grammar, style, and organization, you do not appear to be engaging in any of the activities requiring registration under FARA. *Id.*

Our conclusion is limited to the specific facts and circumstances outlined in your February 19th e-mail, and may change should your activities on behalf of [Foreign Advisor] change in any way. For example, you may need to register under FARA, should you decide to engage in any substantive writing on behalf of [Foreign Advisor] or the Government of [Foreign Country], if undertaken with an intent to influence any segment of the public within the United States with respect to the political or public interest, policies, or relations of [Foreign Country], or of any foreign country or foreign political party. If that were to occur, you should contact us immediately.

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact this office by telephone at 202-233-0776, or by e-mail to FARA.Public@usdoj.gov, if you have any questions.

Sincerely,

/s/ Jennifer K. Gellie

Jennifer Kennedy Gellie
Chief
FARA Unit

¹ “Political activities” are defined in the Act as “any activity that the person engaging in believes will, or that the person intends to, in any way, influence . . . any section of the public within the United States with reference to . . . the political or public interests, policies, or relations of a government of a foreign country or foreign political party.” 22 U.S.C. § 611(o).