



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

March 21, 2024

Via E-mail

[Requestor]

[Address]

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

Dear [Name]:

We write in response to your January 29, 2024, e-mail, as supplemented on February 20, 2024, requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2(a), on whether you must register under the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA”), for certain proposed activities you may undertake on behalf of [Foreign Individual] of [Foreign Country]. Based on the representations in your e-mails, and for the reasons discussed below, we have determined that you would be obligated to register for the proposed activities.

I. Background

To combat corruption in [Foreign Country] and other nearby countries, Congress enacted the United States-Northern Triangle Enhanced Engagement Act in 2020.¹ Section 353(b) of that statute requires the periodic publication of a list of individuals determined by the U.S. President to have “knowingly engaged in actions that undermine democratic processes or institutions, or in significant corruption or obstruction of investigations into such acts of corruption” in the applicable countries.² With some exceptions, Section 353(d) required the imposition of sanctions on listed individuals, namely the denial of entrance into the United States and the placement of immediate visa restrictions.³

Pursuant to Section 353(f), the authorization to impose sanctions, and any sanctions previously imposed, expired on December 27, 2023.⁴ However, some of Section 353’s provisions remain in effect, including the State Department’s continuing authorization to issue public lists of corrupt

¹ Pub. L. No. 116-260, Div. FF, Title III, 134 Stat. 1182, 3129-31 (codified as amended at 22 U.S.C. §§ 2277-2277a).

² 22 U.S.C. § 2277a(b). The President delegated his authority under Section 353 to the Secretary of State on June 21, 2021. 22 U.S.C.A. § 2277a note.

³ *Id.* § 2277a(d).

⁴ 22 U.S.C. § 2277a(f).

and undemocratic actors.⁵ Moreover, the State Department has indicated on Section 353 lists that it would “continue to review the individuals listed in the report, . . . consider all available tools to deter and disrupt corrupt, undemocratic activity[, . . . and] utilize all applicable authorities, as appropriate, to ensure corrupt officials are denied safe haven in the United States.”⁶

[Foreign Individual], who served as [an elected official] of [Foreign Country] from [Date A] to [Date B], was added to the Section 353(b) list in [year].⁷ In your emails, you state that you were introduced to [Foreign Individual] by an acquaintance in the past and that [Foreign Individual] has now asked you to seek [Foreign Individual’s] removal from that list. You state that you “have not entered into any written or oral terms to help” [Foreign Individual], but note that you “may receive compensation in the future[.]”⁸

To achieve removal from the list, you state that [Foreign Individual] asked you “to obtain a hearing with the proper authorities so that [Foreign Individual] can present [Foreign Individual’s] evidence.”⁹ You state that you “will be attempting to contact whomever can resolve this matter to include DOJ and [M]embers of Congress.”¹⁰

II. FARA Analysis

FARA’s definition of “foreign principal” includes, among other things, “a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States[.]”¹¹ Because [Foreign Individual] is outside of the United States and has not been established to have American citizenship and domicile, [Foreign Individual] qualifies as a “foreign principal” under FARA.

Under Section 611(c) of FARA, an “agent of a foreign principal” is defined to include “any person who acts . . . at the order, request, or under the direction or control, of a foreign principal” and who, among other things, “within the United States represents the interests of such foreign principal before any agency or official of the Government of the United States.”¹²

⁵ 22 U.S.C. § 2277a(f)-(g).

⁶ See U.S. Department of State, *Section 353 Corrupt and Undemocratic Actors Report*, <https://www.state.gov/reports/section-353-corrupt-and-undemocratic-actors-report/> (last visited Mar. 20, 2024).

⁷ *Id.*

⁸ E-mail from [U.S. Individual] to FARA Unit (Feb. 20, 2024).

⁹ *Id.*

¹⁰ *Id.*

¹¹ 22 U.S.C. § 611(b)(2).

¹² 22 U.S.C. § 611(c)(1)(iv).

Your emails make it clear that you will be acting at the request of [Foreign Individual] when you represent [Foreign Individual's] interests potentially before the State Department, the Department of Justice, Members of Congress, and other U.S. agencies or officials for purposes of contesting the Section 353(b) designation. You would therefore satisfy FARA's definition of an "agent of a foreign principal." Because you would not be otherwise exempt from registration,¹³ you would be obligated to register under FARA. If you agree to engage in the proposed activities referenced above, please register within 10 days of such agreement.¹⁴

This advisory opinion is expressly limited to the facts, conditions, and conclusions stated herein, and the requirements of FARA and its regulations. If there are any changes in the facts and circumstances you related to us, 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 e-mail to FARA.Public@usdoj.gov or by telephone at (202) 233-0776, if you have any questions.

Sincerely,

/s/ Evan N. Turgeon

Evan N. Turgeon
Chief, FARA Unit

¹³ 22 U.S.C. § 613.

¹⁴ 22 U.S.C. § 612(a).