



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

December 13, 2018

Via Email and First Class Mail

[addressee deleted]

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

Dear [name deleted]:

We write in response to your letter of October 11, 2018, in which you request an opinion, pursuant to 28 C.F.R. § 5.2(a), with respect to the registration obligations of your client, [individual], 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 letter, we have concluded that [individual] is required to register under the Act.

As an initial matter, FARA is a disclosure statute which requires registration of “agents of foreign principals” who are engaged in “political activities” or other specified activities under the Act. Under the Act, an “agent of a foreign principal,” required to register means—

- (1) any person who acts as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control, of a foreign principal¹ 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—
 - (i) engages within the United States in political activities for or in the interests of such foreign principal;
 - (ii) acts within the United States as a public relations counsel, publicity agent, information-service employee or political consultant for or in the interests of such foreign principal;
 - (iii) within the United States solicits, collects, disburses, or dispenses contribution, loans, money, or other things of value for or in the interest of such foreign principal; or
 - (iv) within the United States represents the interests of such foreign principal before any agency or official of the government of the United States; and
- (2) any person who agrees, consents, assumes or purports to act as, or who holds

¹ “The term ‘foreign principal’ includes—(1) a government of a foreign country and a foreign political party.” 22 U.S.C. § 611(b).

himself out to be, whether or not pursuant to a contractual relationship, an agent of a foreign principal as defined in clause (1) of this subsection.

22 U.S.C. § 611(c).

We, therefore, examine the activities and registration status of your client, [individual], in light of that standard.

We understand, through the representations contained in your October 11, 2018, letter, that [individual] is employed by and has been serving as an Officer, Advisor, and/or Political Advisor for the [foreign political party] since [date deleted]. As noted in your letter, [foreign political party] is the [text deleted].² The [foreign political party], refers to itself, as your letter has indicated, as [text deleted].³ Through its members in [text deleted], [foreign political party] advocates for and votes on its positions through legislation introduced in [text deleted], which once passed in [text deleted], ratified by [text deleted], signed by the President of [text deleted], and published in [text deleted], becomes law.⁴ In this way, it appears to us that [foreign political party] acts in the same way as any political party for the purposes of FARA.⁵ We can therefore, conclude that [foreign political party] is a foreign principal under FARA because it operates in the [text deleted]⁶ as a political party.

As noted in your October 11, 2018, letter, [individual] has been employed by the [foreign political party] since [date deleted], serving first as an Officer. In [date deleted], [individual] served in the role of an Advisor and a year later, that of a Political Advisor for the [foreign political party]. In those roles, [individual] served in an agency capacity for the [foreign political party] under FARA.⁷

Likewise, although your October 11, 2018, letter described a number of activities in which [individual] engaged, both in the United States and other countries, certain of those activities stand out as requiring registration under FARA. For instance, your letter describes activities undertaken by [individual] in March 2017 in which [individual] provided counsel and

² [text deleted].

³ [text deleted].

⁴ [text deleted].

⁵ “The term ‘foreign political party’ includes any organization or other combination of individuals in a country other than the United States, or any part or branch thereof, having for its aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration or control, of a government of a foreign country or a subdivision thereof, or in furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;” 22 U.S.C. § 611(f).

⁶ [text deleted].

⁷ 22 U.S.C. 611(c). *See Attorney General of the United States v. Irish Northern Aid Committee*, 668 F.2d 159, 161 (2d Cir. 1982) (For purposes of FARA, concern regarding agency is whether the relationship warrants registration by the agent to carry out the informative purposes of the Act.).

follow up to the [foreign political party] regarding invitations sent to Members of the U.S. Congress to attend [text deleted]. Your letter described [text deleted], which would be attended by delegates from [foreign political party], 12 heads of state and government from [foreign countries], the Presidents of [foreign governmental institutions], as well as [text deleted] issues of interest to [foreign region]. According to your letter, [individual] drafted two resolutions for [text deleted], the subject of which would be of political interest to the United States as well as [foreign region]. We regard your client's activities in counseling the [foreign political party] and reaching out to Members of the U.S. Congress as fitting within the role of "political consultant"⁸ under FARA, as well as engaging in "political activities" under the Act in that the advice rendered and the sending of the invitations was made with the intent to influence the Members of Congress with "reference to the political or public interests, policies, or relations of a foreign government or a foreign political party." 22 U.S.C. 611(o).

Further, your October 11, 2018, letter notes that in July 2017, [individual] accompanied the [foreign political party official] to attend congressional meetings and other events in Washington, D.C. which were focused on strengthening [text deleted] ties. To the extent that [individual] was, as your letter indicates, organizing briefings and talking points, as well as logistical assistance, [individual] is obligated to register under FARA since he was representing the interests of the [foreign political party] before an agency or official⁹ of the U.S. Government. 22 U.S.C. § 611(c)(1)(iv). Although your letter notes that the trip was organized in cooperation with various organizations in the United States, it does not relieve [individual] of his obligation to register under FARA.

We ask that you effect [individual]'s registration within 30 days of the date of this letter.

We will treat your submission in accordance with 28 C.F.R. § 5.2(m). Please contact [name deleted] or me by telephone at 202-233-0776, if you have any questions.

Sincerely,
Heather H. Hunt, Chief
FARA Registration Unit

⁸ "The term 'political consultant' means any person who engages in informing or advising any other person with reference to the domestic or foreign policies of the United States or the political or public interest, policies, or relations of a foreign country or of a foreign political party." 22 U.S.C. § 611(p). We view [individual] as a political consultant under FARA because he is engaged in political activities that reached the United States. The fact that [individual] may have rendered advice while physically outside the United States does not relieve him of the obligation to register because his political activities reached into the United States when he contacted members of Congress. See *Foreign Propaganda, Exclusion From Mails*, 39 U.S. Op. Atty. Gen. 535 (U.S.A.G.), 1940 WL 1427 (Dec. 10, 1940) ("A person outside the United States who uses the mails to commit here an act forbidden by statute is liable to the penalties of the statute. Propaganda dispatched by an agent of a foreign principal who is not registered under the act of June 8, 1938, as amended, may be excluded from the mails.")

⁹ The term "official" as used in Section 1(c) of FARA includes Members and officers of both Houses of Congress as well as officials in the executive branch of the United States Government. 28 C.F.R. § 5.100(d).