



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

July 7, 2021

[Name and address]

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

Dear [Name]:

This is in reference to your letter of May 25, 2021 (“the May 25 Letter”), requesting an advisory opinion, pursuant to 28 C.F.R. § 5.2, with respect to the obligations of your organization to register pursuant to the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. § 611 *et seq.* (“FARA” or the “Act”).

In the letter, and in your July 2, 2021 response to follow-up questions from the Department of Justice, you state that you and a group of other individuals seek to form a group, [group name], in the United States that works with individuals both within the U.S. and overseas (including within [country]) to oppose, and eventually replace, [foreign government]. You seek to raise both financial and political support for this group, and to reach out to U.S. policymakers and business leaders in furtherance of your goals.

Generally speaking, 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 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, in pertinent part:

- (i) engages in political activities¹ for or in the interests of such foreign principal;
- (ii) acts as public relations counsel, publicity agent, information-service employee or political consultant² for or in the interests of such foreign principal;
- ...
- (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)(l).

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).

² The Act defines a “political consultant” as “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).

Your May 25 Letter followed our August 27, 2019 communication (“Previous Advisory Opinion”) providing you with an advisory opinion pursuant to 28 C.F.R. § 5.2 that the prior incarnation of your organization, [group name], did not then have an obligation to register under FARA based on the information you provided at that time.

In response to our June 24, 2021 letter requesting additional information about your group, you stated in an e-mail dated July 2, 2021 that [group name] and [group name] “have the same goals and the same principles.” You describe [group name] as having a broader membership than [group name], but say that “[group name] is an independent organization . . . there is no internal or external party that controls it.” You state that [group name] has “no funding currently,” and that there is “no guidance or oversight provided by persons or a party or government or . . . foreign members.”

Based on your certification that these activities are not undertaken “at the order, request, or under the direction or control” of any foreign principal, as defined in the Act, the proposed activities would not require registration under FARA. *See* 22 U.S.C. § 611(c)(1). More specifically, because there is no foreign principal identified or apparent in the facts as you have described them, you and your group would not be acting as agents of a foreign principal under the Act.

Please note that our conclusion is based solely upon the representations in your communications to the Department of Justice, and must be revisited in the event that any of the facts change. In particular, you or your group may need to register under FARA if you/it acts at the order, request, or under the direction or control, of a foreign principal, or receives any funding from a foreign principal, such as a foreign government or foreign political party. In that event, you or your group should contact the FARA Unit immediately in order that we may reexamine whether your group has an obligation to register.

If you have any questions regarding this matter, please contact [Name] at [Telephone Number].

Sincerely,

/s/ Jennifer K. Gellie

Jennifer Kennedy Gellie
Chief, FARA Unit