



U.S. Department of Justice

National Security Division

Counterintelligence and Export Control Section

Washington, DC 20530

February 13, 2018

[addressee deleted]

Re: [text deleted]
Request for Advisory Opinion

Dear [name deleted]:

We write in response to your letter of January 31, 2018, in which you request an opinion pursuant to 28 C.F.R. § 5.2(a) with respect to the registration obligations of [US organization] under 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 and limited to the facts presented in your letter, we have determined that [US organization] does not have an obligation to register under FARA.

According to your submission, [US organization] is currently engaged in a dialogue with [foreign government] to encourage cooperation between the [foreign government] and the United States Government to seek the release of [incarcerated individual].¹ Among the activities in which [US organization] would be engaging would be to encourage the U.S. Government to meet with various [foreign government] officials who have agreed to assist in seeking the release of [incarcerated individual] from [foreign government] custody.

You further represent that you have no contractual relationship with [foreign government] or any foreign entity and that [US organization] will receive no fees for its services from [foreign government]. You represent that [US organization]’s advocacy is humanitarian in nature and solely for the benefit of [incarcerated individual] in that your sole purpose for this representation is to seek to secure [his/her] release and homecoming.

Generally speaking, a party is an “agent of a foreign principal” who must register under FARA if it acts “at the order, request, or under the direction or control of a foreign principal” and engages in one of the following activities:

- (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 contributions,

¹ [text deleted]. We take no view as to whether you have to obtain a license from OFAC as to the activities proposed in your letter.

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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[.]

22 U.S.C. § 611(c).

The consideration most relevant to our determination that [US organization] does not have an obligation to register is that it does not have an agency relationship with the [foreign government], as agency is defined under FARA. Rather, [US organization] appears to be working solely for the benefit of [incarcerated individual], to seek [his/her] release.

Accordingly, we have determined that [US organization] does not have an obligation to register under FARA because it has no agency relationship with a foreign principal. Our determination is limited to the particular facts you have represented in your January 31, 2018, letter. Therefore, if any of the facts with respect to activities undertaken by you depart in any way from those described in your letter, especially in the event that [US organization] undertakes to speak for the [foreign government] in its interactions with the U.S. Government, please notify this office, as its registration status may change.²

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

² You note in your submission that you can envision that [foreign government] representatives could request something from the U.S. Government in return for [foreign government] efforts to assist in gaining the release of [incarcerated individual]. That interaction could precipitate a change in registration status for [US organization].