

THE
NATIONAL LAW REVIEW

Plea Agreement Hints at Justice Department's Expanded Reading of the Foreign Agents Registration Act

Monday, May 14, 2018

In recent months, we have [highlighted](#) trends of increased enforcement and increasingly aggressive interpretation of the Foreign Agents Registration Act by the Department of Justice. These trends are evidenced in the Justice Department's [announcement](#) last week that the President of the Pakistan American League, Nasir Adhem Chaudhry of Maryland, had agreed to plead guilty for failure to register under FARA. The case is unusual in several respects.

FARA prosecutions themselves are few and far between. In 2016, the Justice Department's Office of Inspector General [reported](#) that, over the last 50 years, the Justice Department had brought only seven criminal FARA cases. Any FARA prosecution itself is therefore inherently notable. Moreover, while criminal penalties have always been possible, the FARA Unit has typically adopted a "[voluntary compliance](#)" posture, often seeking to resolve matters through the filing of late registrations and reports. The fact that FARA charges were filed at all therefore suggests a continued shift away from voluntary compliance and towards criminal prosecutions.

The case is also notable because the plea agreement's stipulated facts focus primarily on Mr. Chaudhry's "information gathering" role for the Government of Pakistan, stating that Mr. Chaudhry engaged in activities "to obtain and manage information on ... the status of the United States Government's policies regarding Pakistan, and its views of, and intentions towards, Pakistan." For example, he allegedly made contacts at think tanks "to obtain in-depth information regarding the United States government's policies towards Pakistan." This heavy focus on information gathering is curious because information gathering for a foreign principal, without more, has not in the past necessarily been viewed by the Department of Justice as triggering FARA registration. Rather, FARA registration can be required by, among other things, engaging in activities that are intended to *influence* the U.S. Government or a section of the public with respect to U.S. domestic or foreign policies. In addition, acting as a "political consultant" might trigger FARA, but DOJ had previously interpreted this provision narrowly, telling Congress in 1989 that the term "political consultant" requires more than "merely advising the foreign principal," and instead requires such things as "arranging meetings with U.S. Government officials on its behalf or accompanying the principal to such meetings." Thus, many of the key facts listed in the stipulation — which emphasize Mr. Chaudhry's information gathering and, to a lesser degree, his political consulting roles — do not obviously support a FARA charge as the statute has previously been interpreted.

To be sure, information gathering was not all that led to Mr. Chaudhry's guilty plea. One paragraph describes Mr. Chaudhry "controlling and manipulating discussion at roundtable events" with U.S. government officials and scholars "in order to neutralize unfavorable views of Pakistan." Another states that he "organized press briefings" "for visiting Pakistan government dignitaries," potentially influencing U.S. public opinion on domestic or foreign policy matters. While these activities might by themselves have supported a FARA prosecution, the extensive focus in the plea documents on information gathering is striking and may reflect an effort by the Justice Department to broaden the range of activities that trigger registration.

It is possible that there is more to the story. A supplement is under seal, and there may be sealed material that would provide further color on why the Government chose to pursue FARA charges in this case. But, at least on

COVINGTON

Article By [Covington & Burling LLP](#)
[Zachary G. Parks](#) [Inside Political Law](#)

[Government Contracts, Maritime &
Military Law](#)
[All Federal](#)

the surface, this prosecution is another example of the Justice Department's renewed focus on FARA and its willingness to file charges in cases that in the past frequently would not have been prosecuted.

© 2019 Covington & Burling LLP

Source URL: <https://www.natlawreview.com/article/plea-agreement-hints-justice-department-s-expanded-reading-foreign-agents>