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Lidia Bonifati

**What Future for Global Health?
Some Reflections on the Legal Challenges
Against the Dismantling of USAID and
the Removal of Public Health Data**

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What Future for Global Health? Some Reflections on the Legal Challenges Against the Dismantling of USAID and the Removal of Public Health Data

Lidia Bonifati*

Abstract

Starting from the executive orders signed at the inauguration of the second Trump presidency, this paper focuses on the resulting attack on global health. After having reviewed the legal nature of executive orders within the US constitutional system, the paper analyses the various forms taken by the attack on global health, including the dismantlement of USAID and the war on public health data. Then, the article addresses the subsequent judicial developments that have partially neutralized the decisions of the Trump administration. Finally, the paper reflects on the impact of these measures not only on the freedom of scientific research but also on the ability of the United States to deal with future emergencies.

Keywords

Courts; Executive Orders; Global Health; Humanitarian Aid; Separation of Powers; US Agency for International Development.

* Postdoctoral Research Fellow in Comparative Public Law – Department of Legal Studies (University of Bologna).

What Future for Global Health?

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Lidia Bonifati

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1. Introduction

The several executive orders (EOs) signed by President Donald Trump in the first days of his second presidency has contributed to reigniting the debate, not only in the United States, on the function of executive orders in the US constitutional system and their relative position in the sources of law.¹ Although it is not unusual for the President to sign a number of executive orders at the beginning of his presidency to bring forward his policies, never before had so many been signed in a single day.² Some of Donald Trump’s decisions might have been predictable, especially those that led to a step back on diversity and inclusion, gender equality and trans

¹ On presidential executive orders, see Robert B Cash, “Presidential Power: Use and Enforcement of Executive Orders,” *Notre Dame Law Review* 39, No. 1 (1963): 44–55; William Hebe, “Executive Orders and the Development of Presidential Power,” *Villanova Law Review* 17, No. 4 (1972): 688–712. For a more recent analysis, see Antonia Baraggia, “Executive Orders under Biden’s Administration,” *DPCE Online* 67, No. 3 (2024): 57–66.

² As of 5 June 2025, approximately three months into his second term, President Donald Trump has already signed 157 executive orders, including 25 on his inauguration day (20 January 2025). As clearly shown by the data available in the Federal Register, this is a particularly high number, not only compared to previous US presidents but also to President Trump’s first term. In fact, these figures show that, in just a few months, Donald Trump has almost reached the total number of executive orders signed by Joe Biden in four years (162 EOs from 2021 to 2025), and has already signed more than half of the executive orders issued during his first term (220 EOs from 2017 to 2021).

rights, as well as on immigration and trade policies.³ However, a perhaps unexpected consequence was their impact on global health, including the attack on public health data (i.e., the CDC surveys) and on one of the most influential federal agencies worldwide, i.e., the US Agency of International Development (USAID).

Building on these recent developments, the aim of the paper is to focus on the attack on USAID that followed the executive orders signed by the President and then continued by the Department of Government Efficiency (DOGE) initiatives. To this end, the paper will briefly outline the nature of executive orders in the US constitutional system, and then review the various decisions taken to remove public health data and dismantle USAID. Furthermore, subsequent judicial developments will be considered, as some of the Trump administration's measures have been partially suspended by federal judges and the US Supreme Court, leading to a partial neutralization of some of the effects of the executive orders. Finally, the paper reflects on the impact of these measures on the ability of the United States to deal with future global emergencies.

2. Background on Executive Orders in the US Constitutional System

In the U.S. constitutional system, executive orders are among the so-called presidential directives, which are a series of written instruments through which the President of the United States carries out his activities.⁴ Executive orders are characterized by a degree of legal ambiguity with respect to their definition and application, as “the U.S. Constitution does not address executive orders, and no statute grants the President the general power to issue them.”⁵ However, even in the absence of explicit provisions, it is a well-established practice for the President to issue executive orders to imprint his policy direction, albeit with limitations.⁶

³ For a complete list of the executive orders signed by Donald Trump, [see the Federal Register website](#).

⁴ Although there are three main presidential directives (executive orders, proclamations, memoranda), it should be noted that these constitute a fluid category in which there is no clear distinction in terms of substance. The effect of directives thus depends more on their content and position in the source system than on their form. Indeed, some presidents have used multiple categories of directives to act on the same issue, as in the case of Donald Trump in the early years of his first term, in which he suspended the entry of citizens from certain countries through two executive orders and a proclamation. On this point, see Christian Termyn, “No Take Backs: Presidential Authority and Public Land Withdrawals,” *Sustainable Development Law and Policy* 19, No. 2 (2019): 7 ff; John Contrubis, “Executive Orders and Proclamations,” *Congressional Research Service* (9 March 1999).

⁵ Abigail A. Graber, “Executive Orders: An Introduction,” *Congressional Research Service*, R46738 (29 March 2021): 1.

⁶ On executive power in the U.S. form of government, see for example Noah R. Feldman, and Kathleen M. Sullivan, *Constitutional Law*, 21st ed. (St. Paul: West Academic, 2022); Mark Tushnet, *The Constitution of the*

Indeed, for EOs to have the force and effect of law,⁷ they must be traceable to the powers conferred on the President by the constitutional framework. Specifically, executive orders find an first legal basis in Article II of the US Constitution, which provides in Section 1 that “the executive power shall be vested in the President [...]”⁸ and in Section 3 that “[...] he shall take care that the laws be faithfully executed [...]”.⁹ Furthermore, since the measures contained in executive orders often relate to foreign policy or defense, an additional constitutional provision to which the legitimacy of executive orders can be traced is Section 2 of Art. II, regarding the presidential power to command the armed forces or guide foreign policy.¹⁰ A second legal basis for EOs is Congress’ delegation.¹¹ Parliamentary delegation can occur prior to the adoption of the executive order, as was the case with EO No. 12957 signed by President Bill Clinton in 1995, which referred to the authorization granted by the US Congress in the *International Emergency Economic Powers Act* and the *National Emergency Act*.¹² Parliamentary delegation can occur even after the adoption of the executive order. For example, Congress may decide to consolidate presidential action by explicitly referring to the executive order in question in subsequent legislation, or by implicitly recognizing its impact through the appropriation of special funds.¹³ According to what has been outlined so far, it is possible to advance a distinction between *constitutional executive orders* traced back to the constitutional framework and, in particular, Art. II, and *statutory-based executive orders* adopted by parliamentary delegation. Although this distinction does not suggest substantial differences, it serves to highlight how executive orders constitute a highly flexible instrument.

Notwithstanding these legal ambiguities, it should be remembered that some pivotal moments in US political and constitutional history were achieved precisely through the

United States of America: A Contextual Analysis (Oxford and Portland: Hart Publishing, 2015); Michael K. Curtis, et al., *Constitutional Law in Context*, 4th ed. (Durham: Carolina Academic Press, 2018); Laurence H. Tribe, *American Constitutional Law*, 3rd ed. (New York: Foundation Press, 2000).

⁷ Although executive orders do not have the force of law *per se*, when brought back to the legal framework they have a binding effect on the federal administration and produce *de facto* legal effects comparable to ordinary legislation (without amending or replacing existing legislation).

⁸ Constitution of the United States - Art. II, § 1, cl. 1.

⁹ U.S. Constitution - Art. II, § 3, cl. 1 (so-called Take Care Clause).

¹⁰ Constitution of the United States - Art. II, § 2, cl. 2.

¹¹ See. Graber, “Executive Orders,” 6-7, 12-13.

¹² “By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), [...]” (Executive order No. 12957 of March 15, 1995, “Prohibiting Certain Transactions With Respect to the Development of Iranian Petroleum Resources,” *Federal Register*, vol. 60, No. 52, (17 March 1995): 14615-14616).

¹³ Graber, “Executive Orders,” 7.

adoption of executive orders, such as the Emancipation Proclamation signed by President Lincoln in 1863 and the affirmative action policies initiated by President Kennedy in 1961.¹⁴ Over time, EOs have often been employed to imprint a decisive change of pace from the previous presidency,¹⁵ as in the case of the executive orders signed by President Joe Biden after Donald Trump's first term. In fact, already in his first two-year term, Biden signed a series of EOs to take action on issues such as the protection of the rights of LGBTQ+ people and the African American community, to adopt measures to contain the Covid-19 pandemic and support reproductive rights after the *Dobbs* ruling, and to advance his policies regarding gun violence and the regulation of artificial intelligence.¹⁶

Yet, as effective as they can be, the fact that executive orders are outside the traditional parliamentary process leaves room for unilateral actions by the President.¹⁷ In this respect, courts play a key role in reviewing the legitimacy of executive orders, ensuring that they fall within the constitutional framework, and in respect of the separation of powers.¹⁸ Particularly significant in this regard was *Youngstown Sheet & Tube Co. v Sawyer*,¹⁹ a landmark judgment that was issued in 1952 by the US Supreme Court. In *Youngstown*, the Court ruled that President Truman's executive order had been issued in violation of separation of powers principles and was therefore unconstitutional. Beyond the outcome of the ruling, it is possible to trace the analytical framework for assessing the executive orders' legitimacy back to Justice Robert Jackson's concurring opinion (thus not the majority opinion). Through this approach, courts should be able to determine whether or not the President has the power to adopt an executive

¹⁴ Executive order No. 10925 of March 6, 1961, "Establishing the President's Committee on Equal Employment Opportunity," *Federal Register*, vol. 26, No. 44 (8 March 1961): 1977-1979.

¹⁵ See Ben Wilhelm, "Executive Orders and Presidential Transitions," *Congressional Research Service*, IF12724 (30 July 2024).

¹⁶ See, for example, the analyses of Baraggia, "Executive Orders under Biden's Administration," 61-66; David M. Driesen, "President Trump's Executive Orders and the Rule of Law," *UMKC Law Review* 87, No. 3 (2019): 489-524; Herbert J. Hovenkamp, "President Biden's Executive Order on Competition: An Antitrust Analysis," *Arizona Law Review* 64, No. 2 (2022): 383-416; Ciro Sbailò, "Executive Order 14110 Governing Artificial Intelligence: Technological Leadership and Regulatory Challenges in an Era of Exponential Growth," *DPCE Online* 67, No. 3 (2024): 275-89.

¹⁷ On this point, see Mark J. Rozell, *Executive Privilege: Presidential Power, Secrecy, and Accountability* (Kansas: University Press of Kansas, 2020); Bruce Ackerman, *The Decline and Fall of the American Republic* (Cambridge: Harvard University Press, 2010); Michael P. Van Alstine, "Executive Aggrandizement in Foreign Affairs Lawmaking," *UCLA Law Review* 54, No. 2 (2006): 309-372.

¹⁸ On this see, e.g., David M. Driesen, "Judicial Review of Executive Orders' Rationality," *Boston University Law Review* 98, No. 4 (2018): 1013-1066; Lisa Manheim, and Kathryn A. Watts, "Reviewing Presidential Orders," *The University of Chicago Law Review* 86, No. 7 (2019): 1743-1824; Graber, "Executive Orders," 8-15.

¹⁹ *Youngstown Sheet & Tube Co. v Sawyer*, 343 U.S. 579 (1952).

order in a given matter, especially where the allocation of constitutional power between the President and Congress is ambiguous or potentially disputed.

Jackson's analytical framework is based on three categories of executive action. The President's authority is "at its maximum"²⁰ when he acts in accordance with the will of Congress, that is, "when the President acts pursuant to an express or implied authorization of Congress."²¹ When, on the other hand, such authorization is neither granted nor denied, the President can still exercise his powers because it is a sort of gray zone "in which [the President] and Congress may have concurrent authority, or in which distribution is uncertain."²² Yet, Jackson specifies that, in such circumstances, the exercise of presidential powers depends more on particular contingencies than on "abstract theories of law",²³ thus suggesting that law in action prevails over law in the books.²⁴ Finally, when the president acts contrary to the express or implied will of Congress, his powers are to be considered "at its lowest ebb".²⁵ Jackson concludes by specifying that the latter case implies that claims of power by the President "must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system."²⁶ Although these criteria do not imply any automatism,²⁷ they are an essential reference from which it can be seen that the legitimacy of presidential power is always interpreted in a relational sense with respect to the position of Congress, ensuring the balance between executive and legislative power.²⁸

²⁰ *Youngstown*, 635

²¹ *Ibid.*

²² *Youngstown*, 637.

²³ *Ibid.*

²⁴ On this point see also Baraggia, "Executive Orders under Biden's Administration," 60.

²⁵ *Youngstown*, 637.

²⁶ *Youngstown*, 638.

²⁷ Indeed, it should be noted that an executive order may be unconstitutional even when the President acts with the authorization of Congress (and thus presidential power is at its maximum), if the law on which it is based is unconstitutional. Similarly, an executive order may be considered valid even when the President acts contrary to Congress (and thus presidential power is at its lowest), if the EO is based on exclusive presidential powers.

²⁸ On the system of U.S. checks and balances and so-called presidential lawmaking, see Giulia Caravale, *In Search of a Balance. President and Congress in Recent U.S. Constitutional Practice* (Naples: Jovene, 2024); Joshua C. Macey, and Brian M. Richardson, "Checks, Not Balances," *Texas Law Review* 101, No. 1 (2022): 89-163; James Goldgeier, and Elizabeth N. Saunders, "The Unconstrained Presidency: Checks and Balances Eroded Long before Trump," *Foreign Affairs* 97, No. 5 (2018): 144-156; Wayne McCormack, "Checks and Balances in the Tripartite U.S. Government," *Journal of International and Comparative Law* 5, No. 2 (2018): 437-460; Matthew N. Beckmann, *Pushing the Agenda: Presidential Leadership in U.S. Lawmaking, 1953-2004* (Cambridge: Cambridge University Press, 2010); Keith Krehbiel, *Pivotal Politics: A Theory of U.S. Lawmaking* (Chicago: University of Chicago Press, 2010); Abner S. Greene, "Checks and Balances in an Era of Presidential Lawmaking," *University of Chicago Law Review* 61, No. 1 (1994): 123-196; Giovanni Sartori, *Comparative Constitutional Engineering* (New York: New York University Press, 1994), 89-90, 161-172.

The analytical framework identified by Jackson has been repeatedly recalled by US courts,²⁹ such as in 2018 by the Ninth Circuit Court of Appeals in *San Francisco v. Trump*,³⁰ regarding the constitutionality of Executive Order No. 13768 “Enhancing Public Safety in the Interior of the United States.”³¹ In that case, the Court ruled that under the particular circumstances in which the executive order was adopted, presidential power fell into the third category of Jackson and the executive order was to be held unconstitutional because it violated the principle separation of powers.³² Beyond the reference to Jackson’s criteria, it is interesting to recall *San Francisco v. Trump* as the case is indicative of a trend that developed in Donald Trump’s first term, when the road of judicial review has been pursued strategically with the systematic challenge of dozens of executive orders before the courts in order to test their constitutionality and possibly scale back presidential policies.³³ This is a strategy that, as we shall see, is also recurring in the second term.

3. The Attack on Global Health

3.1. The Dismantling of USAID

The dismantling of the US Agency for International Development (USAID)³⁴ occurred through the issuing of several executive orders establishing the Department of Government Efficiency (DOGE)³⁵ and of Executive Order No. 14169 “Reevaluating and Realigning United States Foreign Aid.”³⁶ As provided by the EOs signed by Donald Trump, DOGE has the mandate to

²⁹ However, in some cases, the Supreme Court has not applied the Jackson criteria to assess the constitutionality of an *executive order*. For example, in *Trump v. Hawaii* (585 U.S. 667 (2018)), which upheld EO No. 13769, the majority of the Court did not apply the tripartite analytical framework, contrary to Justice Sotomayor’s approach in her own dissenting opinion.

³⁰ *San Francisco v. Trump*, 897 F.3d 1225 (9th Cir. 2018).

³¹ See Graber, “Executive Orders,” 11.

³² See Baraggia, “Executive Orders under Biden’s Administration,” 61.

³³ Manheim, and Watts, “Reviewing Presidential Orders,” 1782-1784.

³⁴ For an updated account on the dismantling of USAID, see Jennifer Kates, Anna Rouw, and Stephanie Oum, “[U.S. Foreign Aid Freeze & Dissolution of USAID: Timeline of Events](#),” *KFF* (23 April 2025).

³⁵ Executive Order No. 14158 of 20 January 2025, “Establishing and Implementing the President’s ‘Department of Government Efficiency,’” *Federal Register*, vol. 90, No. 18 (29 January 2025), 8441-8442; Executive Order No. 14219 of 19 February 2025, “Ensuring Lawful Governance and Implementing the President’s ‘Department of Government Efficiency’ Deregulatory Initiative,” *Federal Register*, vol. 90, No. 36 (25 February 2025), 10583-10585; Executive Order No. 14222 of 26 February 2025, “Implementing the President’s ‘Department of Government Efficiency’ Cost Efficiency Initiative,” *Federal Register*, vol. 90, No. 18 (29 January 2025), 11095-11097.

³⁶ Executive Order No. 14169 of 20 January 2025, “Reevaluating and Realigning United States Foreign Aid,” in *Federal Register*, vol. 90, No. 19 (30 January 2025), 8619-8620.

“implement the President’s DOGE Agenda, by modernizing federal technology and software to maximize governmental efficiency and productivity”.³⁷ This immediately resulted in drastic spending cuts and mass layoffs of federal employees,³⁸ often through the use of automated decision-making.³⁹ On its part, Executive Order No. 14169 suspended active assistance programs for 90 days and forcing thousands of employees to take forced leave. Also established through an executive order in 1961,⁴⁰ USAID was created by President John Fitzgerald Kennedy as a federal agency under the Department of State. Especially at the beginning, USAID institutionalized the international aid plans initially envisaged by the Marshall Plan, playing a key geopolitical role in an anti-Soviet perspective and helping to shape US foreign policy during the Cold War.⁴¹ Indeed, while funding was initially used to rebuild Western Europe after World War II, starting from the 1970s, through USAID, the US provided humanitarian and development assistance in dozens of countries.⁴² The impact of the suspension of foreign aid and the dismantling of USAID has already had (and will increasingly have) a dramatic impact in several areas of the world. For instance, USAID has funded important primary education and healthcare programs in Sub-Saharan Africa (especially on HIV/AIDS and Ebola), provided humanitarian aid in war zones (including in Ukraine) and supported independent media in illiberal or non-democratic regimes.⁴³

Moreover, among the projects funded by USAID, one program that has been strongly affected by the executive orders is the Demographic and Health Survey (DHS) Program. Active since 1984, the DHS is currently the largest data collection program on low- and middle-income countries in the Global South and is the main reference for many studies and programs of international cooperation and humanitarian assistance in more than 90 countries, mainly in Sub-

³⁷ Executive Order No. 14158, “Establishing and Implementing the President’s ‘Department of Government Efficiency’,” 8441.

³⁸ Caitlin Ostroff, et al., [*DOGE Claims It Has Saved Billions. See Where*](#), *The Wall Street Journal* (22 February 2025).

³⁹ On this point, see the comment by Nai Lee Kalema, [*What DOGE Could Mean for the Future of Democracy*](#), *Harvard Kennedy School Carr Center for Human Rights Policy* (10 February 2025).

⁴⁰ Executive Order No. 10973 of 3 November 1961, “Administration of Foreign Assistance and Related Functions,” in *Federal Register*, vol. 26, No. 215 (7 November 1961), 10467-10499.

⁴¹ On the history and strategic role of USAID in US foreign policy, see Andrew David, and Michael Holm, “The Kennedy Administration and the Battle over Foreign Aid: The Untold Story of the Clay Committee,” *Diplomacy & Statecraft* 27, No. 1 (2016): 65–92.

⁴² See James Essex, *Development, Security, and Aid: Geopolitics and Geoeconomics at the U.S. Agency for International Development* (Athens: University of Georgia Press, 2013).

⁴³ On this see David W. Chapman, and Jessica Jester Quijada, “An Analysis of USAID Assistance to Basic Education in the Developing World, 1990–2005,” *International Journal of Educational Development* 29, No. 3 (2009): 268–80; Heidi Morefield, “‘More with Less’: Commerce, Technology, and International Health at USAID, 1961–1981,” *Diplomatic History* 43, No. 4 (2019): 618–43.

Saharan Africa and the South-East Asia.⁴⁴ Specifically, the DHS datasets contain a wide variety of data, including epidemiological data on the spread of HIV/AIDS and other diseases (including malaria and Covid-19), nutritional claims on infants, children and adults, data on neonatal, infant and maternal mortality, and indicators on gender inequalities, contraceptive use and family planning. Therefore, the suspension of foreign aid programs under the executive order resulted in the suspension of the DHS Program and the (temporary) removal of the relevant datasets. Although the datasets have been restored for now, the DHS website warns that “Due to the on-going review of US foreign assistance programs, the DHS Program is currently on pause”.⁴⁵ At the moment, it is impossible to know whether the DHS Program’s data collection will resume in the future and whether it will continue to provide access to important information that are crucial for the development of many countries, as well as unique demographic surveys that are essential for the scientific community around the world.

Thus, the suspension of USAID’s activities around the world after the executive orders were signed has had a profound impact on both humanitarian aid programs and a range of data informing policy and research in areas of the world where public health is often still fragile and in a state of emergency.⁴⁶

3.2. The Removal of Public Health Data

Among the several government sites taken offline to comply with Trump’s executive orders,⁴⁷ causing considerable concern in the scientific community was the disappearance of several surveys by the Centers for Disease Control and Prevention (CDC),⁴⁸ a federal agency serving as a major monitoring body. The CDC is involved in monitoring and preventing diseases such as the flu, diabetes, tuberculosis, and hepatitis and was the focal point for tracking infections during the Covid-19 pandemic.

⁴⁴ On the DHS Programme, see for example Madeleine Short Fabic, YoonJoung Choi, and Sandra Bird, “A Systematic Review of Demographic and Health Surveys: Data Availability and Utilization for Research,” *Bulletin of the World Health Organization* 90, No. 8 (2012): 604–12; J. Ties Boerma, and A. Elisabeth Sommerfelt, “Demographic and Health Surveys (DHS): Contributions and Limitations,” *World Health Statistics Quarterly* 46, No. 4 (1993): 222–26; “Health and Population Data for Developing Countries Available through USAID Project,” *American Journal of Public Health* 81, No. 11 (1991): 1414.

⁴⁵ For further details, please refer to the [homepage](#) of the DHS Program.

⁴⁶ Catherine Kyobutungi, Ebere Okereke, and Seye Abimbola, [After USAID: What Now for Aid and Africa?](#), *BMJ*, No. 388 (11 March 2025).

⁴⁷ See Nanna Bode Thylstrup, and Katie MacKinnon, [“The Politics of Digital Erasure: Governance and Control in Government Information Infrastructures,”](#) *Verfassungsblog* (24 March 2025).

⁴⁸ Will Stone, Selena Simmons-Duffin, [“Trump Administration Purges Websites Across Federal Health Agencies,”](#) *NPR* (31 January 2025).

The executive orders in question were specifically No. 14151 “Ending Radical and Wasteful Government DEI Programs and Preferencing”⁴⁹ and No. 14168 “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”.⁵⁰ On January 21, 2025, an initial memorandum had been circulated by the Office of Personnel Management (OPM) asking federal departments and agencies to comply with EO No. 14151 by closing active diversity and inclusion programs because “[these] programs divided Americans by race, wasted taxpayer dollars, and resulted in shameful discrimination.”⁵¹ The adjustment also included the removal of online and social media content, documents, directives, and materials produced by agencies prior to EO No. 14151.⁵² Referring to EO No. 14168, a subsequent OPM memorandum required the removal of all materials, communications, directives, regulations, social and online content “promot[ing] gender ideology”.⁵³

Although the two memoranda did not explicitly mention data or statistical surveys contained on federal agency sites, these requests resulted in the removal of categories such as “gender,” “sex assigned at birth,” “binary/non-binary,” “transgender,” and “minority” from online contents.⁵⁴ As a government website, the CDC responded to the executive orders by taking certain datasets offline and affecting demographic information essential to scientific research, which has been using CDC surveys to formulate effective responses to public health problems for decades. These included, for example, the Behavioral Risk Factor Surveillance System (BRFSS), one of the most widely used surveys nationwide (running for about 40 years) that collects data on obesity, breast cancer incidence, and vaccination coverage.⁵⁵ Data for all years involved in the survey were initially taken offline and then restored, but without the

⁴⁹ Executive Order 14151 of January 20, 2025, “Ending Radical and Wasteful Government DEI Programs and Preferencing,” *Federal Register*, vol. 90, no. 18 (29 January 2025), 8339-8341.

⁵⁰ Executive Order 14168 of January 20, 2025, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” *Federal Register*, vol. 90, no. 19 (30 January 2025), 8615-8618.

⁵¹ U.S. Office of Personnel Management, “Memorandum ‘Initial Guidance Regarding DEIA Executive Orders,’” (21 January 2025).

⁵² EO No. 14151 revoked the previous EO No. 14035, “Diversity, Equity, Inclusion and Accessibility (DEIA) in the Federal Workforce,” (25 June 2021).

⁵³ U.S. Office of Personnel Management, “Memorandum ‘Initial Guidance Regarding President Trump’s Executive Order Defending Women,’” (29 January 2025).

⁵⁴ “When administering or enforcing sex-based distinctions, every agency and all Federal employees acting in an official capacity on behalf of their agency shall use the term ‘sex’ and not ‘gender’ in all applicable Federal policies and documents.” (EO No. 14168, sec. 3(c). For all terms that have been “removed” from public and online documents, see Karen Yourish, et al., “[These Words Are Disappearing in the New Trump Administration](#),” *The New York Times* (7 March 2025).

⁵⁵ The surveys are available on the Behavioral Risk Factor Surveillance System (BRFSS) [website](#).

questionnaire texts or related codebooks.⁵⁶ According to reports from the US organization KFF, the BRFSS core questionnaire did not contain questions on sexual orientation or gender identity, but in more recent years the survey has offered a supplementary form on sexual identity that has been used in most US States.⁵⁷ The use of this data, for example, revealed that transgender adults, compared to cisgender adults, tend to be more often uninsured, suffer from depression and report poor health.⁵⁸

In addition, compliance with executive orders also led to the removal of CDC's datasets on the spread of HIV/AIDS and related monitoring reports, which have been collecting data since the beginning of the epidemic in the United States since the 1980s.⁵⁹ Similarly, the AtlasPlus interactive database, which collects more than 15 years of monitoring activities on the spread of HIV, viral hepatitis, sexually transmitted diseases and tuberculosis, has also been taken offline.⁶⁰ The latter datasets became visible again on the CDC website a few days later, although it was not possible to verify any changes in them.

Finally, another important dataset involved in the removal of data from the CDC website was the Youth Risk Behavior Surveillance System (YRBSS), which has been collecting data on youth vulnerabilities, such as sexual health, alcohol consumption, smoking and drug abuse, mental health, and LGBTQ+ minority stress, since 1990.⁶¹ It is a unique survey insofar as it directly involves teenagers, without questions being asked of parents, thus ensuring an accurate response from respondents. Data from the YRBSS have been used, for example, to study mental health disparities among teenagers from the LGBTQ+ community, who demonstrate much higher frailty than the rest of the population in the same age group.⁶² Through the YRBSS surveys, it was possible to assess the state of teenagers mental health during the pandemic,

⁵⁶ Cynthia Cox, et al., "[A Look at Federal Health Data Taken Offline](#)," *KFF* (2 February 2025).

⁵⁷ *Ibid.*

⁵⁸ See Wyatt Koma, et al., "[Demographics, Insurance Coverage, and Access to Care Among Transgender Adults](#)," *KFF* (21 October 2020).

⁵⁹ Cox, "A Look at Federal Health Data."

⁶⁰ *Ibid.*

⁶¹ The surveys are⁶¹ Cox, "A Look at Federal Health Data."

⁶¹ *Ibid.*

⁶¹ The surveys available on the Youth Risk Behavior Surveillance System (YRBSS) [website](#).

⁶² KFF, "[LGBTQ+ Health Policy](#)," *Health Policy 101* (September 2024).

showing a marked increase in suicidal ideation, especially among girls.⁶³ As with the BRFSS, data from the YRBSS were later restored but without the questionnaires or codebooks.⁶⁴

Therefore, already from this brief overview, it is possible to grasp how essential the Centers for Disease Control and Prevention datasets have been in studying the state of public health in the United States and formulating targeted policies to combat diseases and reduce inequalities, both at the federal and state levels.

4. The Legal Challenges

As in Donald Trump's first term, lawsuits against his executive orders have rapidly multiplied, leading to an increasing number of judicial decisions. The role of the courts has proven to be crucial in preserving the balance of power, and in particular the position of Congress, especially in those cases where the actions of the executive have been found to be unlawful.⁶⁵ The following sections focus on those decisions concerning the dismantling of USAID.

4.1. Decisions on the Forced Leave or Firing of USAID Employees

A first set of judicial decisions concerns the effects resulting from the executive orders, namely the forced leave of USAID employees. As already mentioned, the dismantling of USAID has effectively prevented the continuation of a large number of aid programs committed to combating health and humanitarian emergencies around the world, including the DHS program. Initially, the forced leave was suspended thanks to a temporary restraining order by Judge Nichols of the District Court for the District of Columbia, who on 7 February ordered the re-employment of employees until at least 21 February.⁶⁶ Yet, after this initial suspension, Nichols later lifted the suspension of the forced leave because, according to the Court, the plaintiffs had not met the necessary requirements for upholding the temporary restraining order in a

⁶³ Nirmita Panchal, et al., [“The Implications of COVID-19 for Mental Health and Substance Abuse,”](#) *KFF* (20 March 2023).

⁶⁴ Will Stone, Pien Huang, [“Some Federal Health Websites Restored, Others Still Down, After Data Purge,”](#) *NPR* (6 February 2025).

⁶⁵ For an up-to-date collection of US court appeals and decisions, please refer to Civil Rights Litigation Clearinghouse, [Special Collection: Trump Administration 2.0: Challenges to the Government](#).

⁶⁶ *American Federation of Government Employees v. Trump*, 1:25-cv-00352, (D.D.C.) (7 February 2025).

preliminary injunction, related to likelihood of success on the merits, irreparable harm, balance of hardships and public interest.⁶⁷

A further profile concerning the effects of the executive orders against USAID concerns the freezing of federal agency funds. In *AIDS Vaccine Advocacy Coalition*, the District Court for the District of Columbia ruled on the matter, and on 13 February, it provided a temporary stay of the freezing of USAID funds.⁶⁸ District judge Ali's decision was appealed by the Department of State before the Court of Appeals for the District of Columbia Circuit, which, however, rejected the appeal. The Trump administration then appealed to the Supreme Court, which in a 5-4 decision ruled in favor of the federal judge.⁶⁹ As is usually the case in emergency motions, the Court did not provide a majority opinion, but the four minority justices, Alito, Thomas, Gorsuch and Kavanaugh, issued a dissenting opinion in which they challenged both the procedure followed by the District Court and the majority decision to reject the government's defense based on the principle of sovereign immunity.⁷⁰ After the Supreme Court's ruling, Judge Ali issued a preliminary injunction on 10 March, preventing the federal government from implementing certain sections of Executive Order No. 14169 and the Department of State's memorandum of 24 January,⁷¹ thus ruling that the Trump administration could not freeze funds and payments for USAID programs completed before 13 February. Regarding the latter decision, it is interesting to notice how Judge Ali immediately defines the constitutional framework in which the case is moving:

"This case involves a departure from that firmly established constitutional partnership. Here, the Executive has unilaterally deemed that funds Congress appropriated for foreign aid will not be spent. The Executive not only claims his constitutional authority to determine *how* to spend it in the first place. In advancing this position, Defendants offer an unbridled view of appropriated funds but usurps Congress's exclusive authority to dictate *whether* the funds should Executive power that the Supreme Court has consistently rejected-a view that flouts multiple statutes whose constitutionality is not in question, as well as the standards of the Administrative Procedure Act ('APA'). Asserting this 'vast and

⁶⁷ *American Federation of Government Employees v. Trump*, 1:25-cv-00352, (D.D.C.) (21 February 2025).

⁶⁸ *AIDS Vaccine Advocacy Coalition v. United States Department of State*, 1:25-cv-00400, (D.D.C.) (13 February 2025).

⁶⁹ *Department of State et al. v. AIDS Vaccine Advocacy Coalition et al.*, 604 U. S. ____ (2025).

⁷⁰ *Department of State et al. v. AIDS Vaccine Advocacy Coalition et al.*, cit., Alito, J. dissenting opinion.

⁷¹ US Secretary of State, "Memorandum on the Executive Order on Review of Foreign Assistance Programs" (24 January 2025).

generally unreviewable’ Executive power and diminution of Congressional power, Defendants do not cite any provision of Article I or Article II of the Constitution”.⁷²

In addition, the District Court held that the executive cannot unlawfully withhold funds previously appropriated by Congress for foreign aid in the *Further Consolidated Appropriations Act 2024*. Recalling Jackson’s criteria in *Youngstown*, the District judge specified that “[w]hen courts have confronted executive overreach of the foreign policy power in the past, they have stood prepared to reaffirm Congress’s role”⁷³ and identified the present case as belonging to the third category of Jackson, i.e. when executive power is at its lowest ebb.⁷⁴ Finally, the Court quoted *Youngstown* again to point out how the Supreme Court has already ruled in the past that the President cannot exempt himself from the checks and balances of Congress “merely because foreign affairs are at issue”.⁷⁵ In doing so, the Court clearly affirmed the role of Congress, reaffirming that parliamentary prerogatives relating to federal spending powers cannot be ignored by the President merely because USAID’s mission is part of US foreign policy. Recalling once again the *Youngstown* decision, the Court concluded by recalling that “[i]n the third *Youngstown* category, the President ‘can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter.’” 343 U.S. at 637 (Jackson, J., concurring). The constitutional power over whether to spend foreign aid is *not* the President’s own-and it *is* Congress’s own”⁷⁶.

Even after this latest decision, the federal government filed a petition before the Court of Appeals for the District of Columbia Circuit. However, until the Court of Appeals rules, the freezing of funds appears to have been partly neutralized.

4.2. Decisions on Musk’s Legitimacy as the DOGE Administrator

Then, another set of court decisions concerns the Department of Government Efficiency and Musk’s legitimacy as a figure entitled to independently make decisions on federal spending power (as in the case of USAID) and access to the personal data of millions of US users. First of all, it should be noticed that the legal nature of DOGE is not immediately comprehensible.

⁷² *AIDS Vaccine Advocacy Coalition v. United States Department of State*, 1:25-cv-00400, (D.D.C.) (10 March 2025), 2.

⁷³ *Ibid.*

⁷⁴ *AIDS Vaccine Advocacy Coalition v. United States Department of State*, 32.

⁷⁵ *AIDS Vaccine Advocacy Coalition v. United States Department of State*, 34.

⁷⁶ *AIDS Vaccine Advocacy Coalition v. United States Department of State*, 35.

In fact, Section 3 of Executive Order No. 14158 provides for a reorganization of the former United States Digital Service, now renamed the United States DOGE Service (USDS), and for the USDS to be headed by a federal administrator decided by the Executive Office of the President reporting to the White House Chief of Staff.⁷⁷ The executive order stipulates that the USDS is a temporary organization whose duration coincides with that of the so-called “DOGE Agenda” of 18 months, expiring on 4 July 2026 on the occasion of the 250th anniversary of American independence. In addition, there is also a requirement for each federal agency, after consultation with the USDS, to establish its own “DOGE team” that will have to coordinate with the USDS in implementing the Presidency’s DOGE Agenda. In this context, therefore, it should be pointed out that, although Elon Musk has been publicly acknowledged by Trump as the leader *de facto* of DOGE (understood as the US DOGE Service), the White House has denied that Musk is USDS administrator, instead confirming his position as an employee of the White House Office as Senior Advisor to the US President.⁷⁸ Therefore, the fact that Musk took such major decisions on spending power without having any authority to do so, and without any authorization from Congress, has led some commentators to express deep concern about the tightness of the checks and balances system of the US constitutional system.⁷⁹

The legitimacy of Musk’s role was recently addressed by the District Court of Maryland, which in *Does v. Musk* upheld the appeal of 26 USAID employees who contested their dismissal and the premature termination of the federal agency’s operations. In the decision, Judge Chuang ordered (albeit temporarily) that part of USAID’s operations should be re-established,⁸⁰ arguing that Musk’s and the US DOGE Service’s decision to dismantle USAID were likely in violation of the Constitution in several respects. Moreover, according to the federal judge, the Trump administration’s actions also appeared to be contrary to the public interest insofar as, by doing so, Congress has been denied the opportunity to exercise its constitutionally guaranteed powers and to decide “whether, when, and how to close down an agency created by Congress”.⁸¹ The Maryland District Court also referred to the criteria identified in *Youngstown*⁸² to test the legitimacy of executive action in the absence of congressional authorization and, as had

⁷⁷ Executive Order 14158, “Establishing and Implementing the President’s ‘Department of Government Efficiency’,” 8441.

⁷⁸ *State of New Mexico v. Musk*, 1:25-cv-00429, (D.D.C.), “Declaration of Joshua Fisher” (17 February 2025).

⁷⁹ See, for example, the commentaries by Alan C. Raul, [Why DOGE Is Unconstitutional](#), *The Washington Post* (11 February 2025); Jonathan Chait, [The Constitutional Crisis Is Here](#), *The Atlantic* (4 February 2025).

⁸⁰ *Does 1-26 v. Musk*, 8:25-cv-00462, (D. Maryland) (18 March 2025).

⁸¹ *Does 1-26 v. Musk*, 68.

⁸² *Does 1-26 v. Musk*, 47, 52.

previously ruled by Judge Ali, stated that the substantial unilateral reorganization of USAID by the executive falls within the third category identified by Jackson, in which presidential power is therefore at its lowest ebb. In fact, the Court made it clear that the government's decisions regarding USAID did not concern foreign policy but rather the structure and resources available to a federal agency. As such, these did not fall within the constitutional presidential powers, even though it is recognized that USAID's mission can be traced back to foreign policy.⁸³ Finally, it is worth noting that for the first time a court has held that Musk appeared to exercise a level of power that would require Senate confirmation under the Appointments Clause, thus suggesting that Musk's actions should be brought under the US system of separation of powers and checks and balances.⁸⁴ Despite the hopes raised by Judge Chuang's decision, on 28 March, the Court of Appeals for the Fourth Circuit reversed the ruling and confirmed that the Department of Government Efficiency had not acted *ultra vires* and specified that "[w]hile defendants' role and actions related to USAID are not conventional, unconventional does not necessarily equal unconstitutional".⁸⁵

4.3. Decisions on Public Health Data

Regarding the removal of CDC's public health data, the decision of Judge Bates of the District Court for the District of Columbia led to a temporary restoration of the datasets.⁸⁶ In fact, the Doctors for America (DFA) organization had almost immediately appealed to the court, arguing that the removal of data and online content by the Department of Health and Human Services, the Centers for Disease Control and Prevention, and the Food and Drug Administration after the issuing of the executive orders was done without adequate notice and without satisfactory justification, especially in view of the fact that those data are regularly used by physicians to treat their patients. Moreover, the plaintiffs pointed out that the inability to access CDC datasets put not only individual patients but also the entire community at serious risk, as it became impossible to respond effectively to emergencies such as the spread of sexually transmitted diseases in teenagers or vulnerable communities.⁸⁷ Upholding Doctors for America's appeal,

⁸³ *Does 1-26 v. Musk*, 48-49.

⁸⁴ *Does 1-26 v. Musk*, 66 ff.

⁸⁵ *Does 1-26 v. Musk*, 8:25-cv-00462, (4th Cir.) (28 March 2025).

⁸⁶ *Doctors for America v. Office of Personnel Management*, 1:25-cv-00322, (D.D.C.) (February 11, 2025).

⁸⁷ *Doctors for America v. Office of Personnel Management*, cited above, p. 7.

the court issued a temporary restraining order and ordered the data to be restored no later than the night of 11 February.

It is interesting to notice that after the Court's decision, the datasets and online information that had been removed from the CDC websites were indeed restored but in some cases with a disclaimer distancing themselves from what the District Court ordered. In order to comply with Judge Bates' order and simultaneously meet the demands of the executive orders, the wording included on the CDC web pages specifies that "[a]ny information on this page promoting gender ideology is extremely inaccurate and disconnected from the immutable biological reality that there are two sexes, male and female."⁸⁸ . Furthermore, it is clarified that "[t]he Trump Administration rejects gender ideology and condemns the harms it causes to children, by promoting their chemical and surgical mutilation, and to women, by depriving them of their dignity, safety, well-being, and opportunities."⁸⁹ . Finally, to leave no room for "misunderstanding," it is clearly reiterated that "[t]his page does not reflect biological reality and therefore the Administration and this Department rejects it."⁹⁰ Even though the attack on the CDC datasets appears to have been halted by this judicial decision, the climate of insecurity among scientists and researchers persists.

5. Concluding Remarks

Although many legal proceedings are still ongoing, this paper showed how courts have played a decisive role in neutralizing some of the most significant effects of the executive orders regarding public and global health. Indeed, courts have played a fundamental role in assessing the constitutionality of presidential actions and preserving the balance of powers, especially in cases where the executive's actions have been found to be unlawful. Several decisions have found violations of the principle of separation of powers and have strongly reaffirmed the position of Congress, preserving the checks and balances that underpin the US constitutional system. Without the federal judges' decisions, the potential impact of removing CDC data on the lives and health of US citizens would have been dramatic. For instance, it would have

⁸⁸ [CDC web](#) page devoted to data on HIV in the United States, updated as of February 7, 2025.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

become impossible to continue tracking the spread of HIV/AIDS, a virus that has left an indelible mark on the history and collective memory of the United States.⁹¹

Moreover, after the pandemic experience, it becomes natural to wonder what might happen if a new epidemiological emergency were to occur and the scientific community was unable to access data critical for formulating adequate medical (and policy) responses to contain the emergency. The CDC's data on Covid-19, for example, had been used to study the progress of the virus in the United States and track infections, as well as identify the population most at risk. Adding to the management of future emergencies from a national perspective are the potential effects on the ability to cope with new emergencies on the global level. The dismantling of USAID and foreign aid means discontinuing important initiatives to combat diseases such as malaria, Ebola, tuberculosis, and HIV/AIDS in Sub-Saharan Africa and South-East Asia, where USAID was also instrumental in responding to the Covid-19 pandemic. Also weighing on future global emergencies are President Trump's decisions to withdraw from the World Health Organization⁹² and the Paris Climate Accords,⁹³ again through the issuing of executive orders.

Finally, the profound impact that the executive orders are having inside and outside the United States makes it inevitable to reflect on the strong scientific and economic dependence on the United States, which for decades has produced datasets (such as the DHS surveys) used by researchers all over the world and carried out humanitarian assistance programs that allowed the management of emergencies in parts of the world where healthcare systems are often in critical conditions. Although the Secretary of State has made "exceptions" to the cuts in order to preserve "lifesaving" humanitarian assistance programs,⁹⁴ it is becoming increasingly crucial to find alternatives to guarantee humanitarian assistance to affected populations. In this perspective, a rediscovery of both international and European multilateralism seems essential for the relaunch of international cooperation capable of dealing with future emergencies.⁹⁵

⁹¹ See Albert R. Jonsen, et al., *The Social Impact of AIDS in the United States* (Washington D.C.: National Academy Press, 1993); William L. Heyward, and James W. Curran, "The Epidemiology of AIDS in the U.S.," *Scientific American* 259, No. 4 (1988): 72–81.

⁹² Executive Order 14155 of January 20, 2025, *Withdrawing the United States from the World Health Organization*, in *Federal Register*, vol. 90, no. 18 (29 January 2025), 8361-8362.

⁹³ Executive Order 14162 of January 20, 2025, *Putting America First in International Environmental Agreements*, in *Federal Register*, vol. 90, no. 19 (30 January 2025), 8455-8457.

⁹⁴ Secretary of State, "Emergency Humanitarian Waiver to Foreign Assistance Pause" (28 January 2025).

⁹⁵ On this, see in particular the fifth priority for the European Union proposed by Casolari in Federico Casolari, "Per una vera Unione di diritto: cinque priorità per l'ordinamento giuridico dell'Unione Europea," *Federalismi.it*, No. 9 (2025): xii-xiv.