

Opinion

UNLIMITED POWER?

Michael Werz analyzes the power
of the American president

The American presidential system can barely be compared to the parliamentary democracies of Europe and other parts of the world. The political structures of Western societies may seem similar at first glance. As in so many areas, however, the United States is historically unique. Fashioned by shaking off the European traditions of aristocratic dominion, the American constitution grants the president far-reaching powers, but places sovereignty over the budget in the hands of Congress and gives the Supreme Court an important supervisory function. These institutional counterweights form “checks and balances” and curb the president’s power. Debate about the president’s executive powers has been raging ever since the USA gained independence. Even back in 1787, an author writing under the pseudonym Cato in what would later become known as the Anti-Federalist Papers stated that the president could become a “Caesar, Caligula, Nero and Domitian in America”.

Over two hundred years on, the discussion continues to put in cyclical appearances. In the past few weeks – in light of Donald Trump’s erratic election campaign – it has flared up again with a force reminiscent of those admonitory words from 1787.

In more recent history, the ingenuity with which Senators and delegates in the House of Representatives have found ways to block the legislative process on Capitol Hill for political motives has led time and again to the White House adopting a more than liberal interpretation on the executive powers of the president. Only once did the political mood tip the other way: In the phase after the Vietnam War and the Watergate Affair, Richard Nixon’s flippant dictum “If the president does it, that means it is not illegal” prompted a crash landing that cost him his office. As a consequence, influential parliamentary committees were established to oversee the executive whenever the current incumbent took liberties with the law.

The end of the Cold War and the dawn of global confrontations with terrorist organizations brought about a fundamental change of mood. The administrations of George W. Bush and Barack Obama expanded their executive powers more and more, adding “so many powers to the White House toolbox”, the Washington Post complained a few weeks ago, “that a President Trump could fulfil many of his promises legally – and virtually unchecked by a Congress that has proven incapable of mustering much pushback for decades.”

It is in the areas of foreign and security policy in particular that this development has created gray areas. Donald Trump’s demands to target the families of IS fighters and use torture as a means of interrogation have sparked off a heated debate on the constitutional powers of the US military to exercise resistance. Only a short time ago, former CIA boss Michael Hayden insisted that “the US military would refuse”. After the experiences of the Bush era, whether this trust is justified or not remains questionable.

The likelihood that a Trump victory could trigger constitutional crises in borderline areas of security policy is thus considerable. Similar concerns apply to the nuclear agreement with the Iranian junta. Congress has granted the government far-reaching powers in this regard, and the unpopularity of the agreement among Republicans would make it easy for a President Trump to undo the progress achieved in the Joint Comprehensive Plan for Action (JCPOA). The implications for the USA’s European partners would be immense.

The same goes for the economic retaliatory measures against China announced by Trump. The renowned Washington-based Peterson Institute for International Economics recently pointed out that the US president has virtually unlimited possibilities for setting import taxes or quotas

in cases where domestic firms demand so-called “protection measures” or complain about market disturbances. Although the International Trade Commission can submit recommendations, the decision ultimately lies with the White House. A trade war would further worsen the fragile global economic situation and deepen the paranoia among China’s increasingly authoritarian Communist Party leadership.

The most worrying discussions center around the question of parliamentary legitimation for the use of military force. The so-called “War Powers Resolution” – a federal law passed in 1973 in the context of the Vietnam War – requires the agreement of Congress no more than 60 days after the beginning of an armed engagement. In previous decades, almost all presidents have ignored this law, and Barack Obama is no exception. The idea of a government headed by Donald Trump enjoying such wide-ranging room for maneuver is alarming.

As so often, the elections on November 8 of this year are of existential importance to many hundreds of millions of people in Europe, Asia and Africa. They are, quite literally, global elections.

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