



SEVERAL US COURT CASES AND ORDERS TEMPORARILY RESTRAIN TRUMP ADMINISTRATION'S FREEZE ON FOREIGN ASSISTANCE

FORTHCOMING

- update in
Doe vs Rubio

17 FEBRUARY 2025

Since CHANGES's [Info Sheet 2 report](#) on two US court cases challenging the Trump Administrations stop-work/stop-payment orders affecting US foreign assistance where judges issued temporary restraining orders, there have been several important updates and additional cases filed.

In the most significant development, two cases specifically on President Trump's Foreign Assistance Pause Executive Orders and Department of State, Office of Budget and Management and USAID stop-work orders and funding-freeze orders on foreign assistance have been filed, the first by [Public Citizen](#) on behalf of AVAC and Journalism Development Network, Inc., and the second brought by the [Global Health Council and others against Trump and other named defendants and the Department of State, USAID, and the Office of Management and Budget](#). The two cases were joined for hearing by Judge Amir Ali, a District of Columbia judge, who ordered a resumption of all foreign assistance programming as in effect on January 19, 2025:

[I]t is hereby **ORDERED** that Defendants Marco Rubio, Peter Marocco, Russell Vought, the U.S. Department of State, the U.S. Agency for International Development, and the Office of Management and Budget (the "Restrained Defendants") and their agents are temporarily enjoined from enforcing or giving effect to Sections 1, 5, 7, 8, and 9 of Dep't of State, Memorandum, 25 STATE 6828 (Jan. 24, 2025) and any other directives that implement Sections 3(a) and 3(c) of Executive Order Number 14169, "Reevaluating and Realigning United States Foreign Aid" (Jan. 20, 2025), including by:

- suspending, pausing, or otherwise preventing the obligation or disbursement of appropriated foreign-assistance funds in connection with any contracts, grants, cooperative agreements, loans, or other federal foreign assistance award that was in existence as of January 19, 2025; or
- issuing, implementing, enforcing, or otherwise giving effect to terminations, suspensions, or stop-work orders in connection with any contracts, grants, cooperative agreements, loans, or other federal foreign assistance award that was in existence as of January 19, 2025.

It is further hereby **ORDERED** that nothing in this order shall prohibit the Restrained Defendants from enforcing the terms of contracts or grants.

It is further hereby **ORDERED** that the Restrained Defendants shall take all steps necessary to effectuate this order and shall provide written notice of this order to all recipients of existing contracts, grants, and cooperative agreements for foreign assistance.

**Global Coalition Resisting
Trump Freeze Orders**

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Due to the fast moving pace of announcements from the USG, and several pending legal actions, this note has been prepared by WG 3 of CHANGE on the basis of available information and will be updated from time to time. This version is as of 17 February 2025.

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It is further hereby **ORDERED** that the Restrained Defendants shall file a status report by February 18, 2025, apprising the Court of the status of their compliance with this order, including by providing a copy of the written notice described above.

The relief ordered is narrower than what the Plaintiffs sought, which included proposed language enjoining Defendants from “terminating, furloughing, or placing personnel on administrative leave” and ordering Defendants to clear “any administrative, operational, human resource, or technical hurdles.” Instead, the judge ordered the Defendants to report on their compliance with the order, which may or may not be sufficient to force the government to act quickly and decisively and to restart all stalled programming. In particular, there is uncertainty about the status of 230+ programs that have already been terminated and a related list of 800 programs targeted for closure. Importantly for PEPFAR and other global health advocates and implementers, by courts having reversed the blanket freeze on foreign aid funding, the terms of the waiver become less important, because the temporary restraining order supersedes and holds supremacy over the partial waiver covering PEPFAR. The court specifically found that the implementation of the waiver was flawed and that it did not mitigate the harms that the Plaintiffs claimed.

In another significant legal development, a Rhode Island District Court judge has issued [an additional order](#) chastising the Trump Administration for failing to promptly and fully implement his previous TRO ordering the release of federal funds to plaintiff States and others. The judge specifically found that the Trump administration has violated its unambiguous TRO. The court ordered as follows:

1. The Defendants must immediately restore frozen funding during the pendency of the TRO until the Court hears and decides the Preliminary Injunction request.
2. The Defendants must immediately end any federal funding pause during the pendency of the TRO.
3. The Defendants must immediately take every step necessary to effectuate the TRO, including clearing any administrative, operational, or technical hurdles to implementation.
4. The Defendants must comply with the plain text of the TRO not to pause any funds based on pronouncements pausing funding incorporated into the OMB Directive, like Section 7(a) of the Unleashing Executive Order, and the OMB Unleashing Guidance. The TRO requirements include any pause or freeze included in the Unleashing Guidance.
5. The Defendants must immediately restore withheld funds, including those federal funds appropriated in the Inflation Reduction Act and the Infrastructure Improvement and Jobs Act. The directives in OMB M-25-11 are included in the TRO.
6. The Defendants must resume the funding of institutes and other agencies of the Defendants (for example the National Institute for Health) that are included in the scope of the Court’s TRO.

This decision has [sparked broad coverage](#) in the U.S. and presages a possible [constitutional crisis](#) if the Trump administration continues to defy the previous TRO and the new order. Since the court case was brought by several US States, the TRO and this order might ultimately be interpreted to apply to release of federal funds to domestic entities only. However, the court case did challenge the OMB’s funding freeze and all related Trump Executive Orders, including specifically his funding freeze for foreign assistance. As stated previously, the Trump administration has appealed to the First Circuit Court of Appeals seeking a stay of the District Court orders, but the [court denied that request](#).



Pursuant to the Rhode Island TRO, it has been reported that [full PEPFAR funding issued through the CDC has been at least temporarily restarted](#), though some IPs, including the government of South Africa, have not yet been directly notified. The CDC notice stated:

In compliance with the temporary restraining order issued on January 31, 2025, in the United States District Court of Rhode Island, Notices of Award issued between January 24 and February 11 2025, that instructed termination, ceasing, suspending, or limiting of activities under this award consistent with Administration Executive Orders are officially rescinded, ... Activities under this award are no longer terminated, ceased or suspended. All other existing terms and conditions are still in effect.

Subsequently, the Rhode Island judge issued a [clarification](#) that:

the Temporary Restraining Order (“TRO”) permits the Defendants to limit access to federal funds “on the basis of the applicable authorizing statutes, regulations, and terms.” ECF No. 50 at 12. The February 10, 2025 Order (ECF No. 96) does not “bar[] both the President and much of the Federal Government from exercising their own lawful authorities to withhold funding without the prior approval of the district court.” ECF No. 102 at 2. Neither the TRO (ECF No. 50), nor the Court’s subsequent Order (ECF No. 96) require the Defendants to seek “preclearance” from the Court before acting to terminate funding when that decision is based on actual authority in the applicable statutory, regulatory, or grant terms.

Pursuant to this clarification and according a new tactic, [reported in the NYT](#), the Trump Administration is using selective terminations and program modifications and limitations instead of relying on the total funding freeze. This tactic resulted in the termination of 230-plus programs. The legality of those terminations is in doubt, however, because they were decided while the foreign aid stop-work and funding-freeze orders were still in place.

[Yet another court case](#) has been filed by Democracy Forward and Public Citizen on behalf of federal employee unions challenging wholesale administrative leaves and firing that have decimated the workforce at USAID and a [TRO](#) has also been issued and has since been extended. The Public Citizen and Democracy Forward case seeks to protect USAID workers fired or placed on administrative appeal and the TRO has temporarily prevented the administration’s wholesale dismantling of USAID into the “[wood chipper](#),” although there are [separate reports](#) that the administration terminated the USAID’s Washington office lease and that workers have been prevented from returning to building.

In addition to stop work/funding freeze cases, there are several other global-health-related cases worth mentioning. A case challenging NIH [caps on indirect costs](#) has been filed and an initial TRO covering only 22 States has been [expanded to cover all states](#). A judge in another case challenging the removal of HHS, CDC, and FDA public health website material has issued [a TRO](#). Multiple court hearings on further TROs, preliminary injunctions, and other matters have been scheduled, and at least one case, the Rhode Island case, has been [appealed to the First Circuit Court of Appeals](#), but that [appeal has since been denied](#).



The legal terrain discussed above is dynamic. There will be further hearings on applications for preliminary and permanent injunctions and other court orders. There are likely to be appeals against judgments unfavourable to the Trump Administration. And there are decisions ahead in the FY appropriations for USAID and PEPFAR and in on-going agency reviews that could be dangerous to HIV and other global health programming. Somehow we are going to have to track terminations and program limitations and get lawyers to go back in court to ask for reporting requirements/transparency in defunding and program modification decisions especially as they might apply to disfavoured key population and gender focused activities. In addition, we should be concerned that although President Trump has stated that he will follow court decisions, Administration officials are advocating that the judges who rule against him should be **impeached**. Advocates will also have to do everything they can to achieve reauthorization and full funding for PEPFAR and propose contingency plans for PEPFAR programmatic changes and funding shortfalls.

