

Enforcement of Court Orders Against the Executive Branch

February 20, 2025

Weeks into the second Trump Administration, a number of executive branch policies have been [challenged in court](#), and several federal district courts have enjoined enforcement of some of the challenged policies. On January 31, 2025, a judge on the U.S. District Court for the District of Rhode Island issued a [temporary restraining order](#) (TRO) barring the Trump Administration from enforcing a federal funding freeze with respect to a number of states that had challenged the freeze. On February 10, 2025, after the states alleged that the government was not complying with the TRO, the court [granted a motion for enforcement](#) of the TRO requiring the government, among other things, to “immediately end any federal funding pause during the pendency of the TRO.”

President Trump has [stated his intent to comply with court orders](#) while appealing adverse court decisions. Nonetheless, recent litigation such as the Rhode Island case has generated [discussion](#) around [what happens](#) if the [executive](#) branch [defies a court](#) order and whether federal agencies or officials may be [compelled](#) to comply with court orders. This Legal Sidebar provides an overview of how court orders are enforced against federal agencies and executive branch officials. It then discusses considerations for Congress related to the enforcement of court orders against the executive branch.

Court Orders Against the Government

A court may issue an order against the federal government when the government is involved in litigation. For instance, when stakeholders sue to challenge the legality of government action, the challengers are the plaintiffs in such cases, and federal agencies or officials are the defendants. Courts usually issue orders based on motions from the parties to litigation, but a court may also issue orders *sua sponte*, or on the court’s own motion.

Court orders against the government may take multiple forms depending on the type of case in which they issue, the stage of litigation, and the discretion of the issuing court. Before a court issues an order barring the enforcement of a federal policy, it must consider the *merits* of the challengers’ claim—that is, the substantive legal issues presented in the case—but in some cases the court makes only a preliminary assessment of the plaintiffs’ [likelihood of success](#) on the merits, which it may revisit later in litigation.

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LSB11271

One key question about any given court order is whether the remedy provided is a form of injunctive or non-injunctive relief. Injunctive and non-injunctive remedies both serve to bar the enforcement of challenged policies, but they [differ in how they do so](#). Non-injunctive remedies apply to the *challenged government action*, determining that the action is (or likely is) unlawful. By contrast, injunctive remedies apply to the *government*, requiring an agency or official to take or not take some specific action. An agency or official who fails to comply with an injunction may be held in contempt and sanctioned, while contempt is not available to enforce orders of non-injunctive relief.

Non-injunctive relief in suits against the federal government may include the following:

- *Declaratory judgment*: a formal declaration that a regulation or policy is unlawful.
- *Stay*: an order temporarily pausing the effect of a challenged regulation or policy while litigation remains pending. Courts may issue stays of agency action in litigation under the [Administrative Procedure Act](#) (APA) pursuant to [5 U.S.C. § 705](#), which allows a court to “issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.”
- *Vacatur*: an order holding that a challenged regulation or policy is invalid and may not be enforced. Courts may vacate agency actions in APA litigation pursuant to [5 U.S.C. § 706](#), which authorizes courts to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

In civil litigation between private parties, a prominent form of non-injunctive relief is money damages. Money damages are [not generally available](#) in suits challenging the legality of federal government policies. (The government may be required to pay [attorney’s fees](#) and litigation costs even when money damages are not available.)

[Injunctive relief](#) may include the following:

- *TRO*: the most preliminary form of injunctive relief, a TRO serves to prevent imminent harm on a short-term basis while the court considers whether to enter a preliminary injunction.
- *Preliminary injunction*: an injunction designed to preserve the status quo while a case remains pending.
- *Permanent injunction*: an injunction that issues once the court has decided a case on the merits. Such an injunction applies indefinitely unless the court sets an expiration date, the issuing court or another court of competent jurisdiction modifies the injunction, or the injunction is overturned on appeal.

Injunctive relief is generally considered to be a more [drastic remedy](#) than non-injunctive relief. Courts sometimes stay or vacate a government action but decline to grant injunctive relief as a claimed exercise of [judicial restraint](#). In the alternative, a court may [simultaneously](#) stay or vacate a challenged policy and enjoin enforcement. Alternatively, if a court initially enters a stay or vacatur and the government nonetheless tries to enforce the policy, the court may later grant injunctive relief.

Enforcement Through Contempt Proceedings

As noted, injunctions may be enforced through [contempt proceedings](#) that may lead to the imposition of sanctions, while non-injunctive relief such as a stay or vacatur may not. The [grant of the motion for enforcement](#) in the Rhode Island litigation reaffirms the defendants’ obligation to comply with the TRO in that case but is not a contempt finding and does not carry any sanctions.

There are two forms of contempt proceedings: [civil and criminal](#). Civil contempt is intended to coerce parties into complying with court orders or to compensate those harmed by a party's noncompliance, while criminal contempt is intended to punish noncompliance. While the boundaries between civil and criminal contempt may [sometimes be unclear](#), this section focuses on civil contempt as the sanction most relevant to requiring the executive branch and its officials to comply with court orders.

A party held in civil contempt may be fined or imprisoned pending compliance with a court order. ([Attorneys](#), including attorneys representing the federal government, may also be held in contempt or may face [sanctions](#) or professional discipline for filing pleadings that are intended to cause delay or are legally or factually unfounded.) In contempt proceedings against the federal government, fines may target a noncompliant agency as a whole, or the head of the agency may face personal fines or imprisonment. While those sanctions are possible in theory and have sometimes been ordered by courts, there is some question whether [sovereign immunity](#) limits their availability as a legal matter. As a practical matter, a 2018 [law review article](#) surveyed contempt proceedings in cases against the federal government and concluded that federal courts are sometimes willing to hold federal agencies and officials in contempt but rarely actually impose sanctions of fines or imprisonment, and when sanctions are imposed they are often halted by appellate courts.

When a federal court imposes contempt sanctions, the [U.S. Marshals Service](#) enforces the order, including arresting persons ordered imprisoned for contempt. The U.S. Marshals Service is an executive branch agency [within the Department of Justice](#). Some [commentators](#) have expressed [concerns](#) that, if the executive branch chose to defy a court order, it might also seek to prevent the U.S. Marshals from enforcing contempt sanctions. The U.S. Marshals are [required by statute](#) to “execute all lawful writs, process, and orders issued under the authority of the United States,” and the President’s pardon power [does not apply to civil contempt sanctions](#). The 2018 review of contempt against the federal government [notes](#) that, historically, Presidents have complied with federal court orders and have not directed the U.S. Marshals not to enforce contempt orders.

In theory, the whole process from injunction to contempt to sanctions might proceed in a district court. In practice, however, it is likely that appellate courts would also be involved. A court order fining or imprisoning a person held in civil contempt generally [may not be appealed](#) until the court enters a final judgment. However, a district court order granting injunctive relief is [immediately appealable](#) to the appropriate federal appellate court, and rulings of the appeals courts related to injunctive relief may immediately be challenged via a [petition for a writ of certiorari](#) to the Supreme Court (though the Court has discretion whether to consider such matters).

As an example, in the Rhode Island case discussed above, the Trump Administration appealed the district court’s TRO and order granting the motion for enforcement. On February 11, 2025, the U.S. Court of Appeals for the First Circuit [denied a motion for an administrative stay](#) of the orders. On February 14, 2025, the First Circuit granted the government’s motion to [voluntarily dismiss the appeal](#). As of the date of this Legal Sidebar, the case remains pending in district court. Subsequent decisions of the district court may be subject to renewed appeals.

Like the district courts, federal appellate courts have the power to hold in contempt those who violate or undermine their orders. The Supreme Court has [used this authority once](#)—and not against the federal executive branch. The need for courts to enter and enforce contempt orders may be lessened on appeal, because the executive branch may face greater political costs if it defies an order of an appellate court, especially the Supreme Court.

Considerations for Congress

When Congress, either chamber, or individual Members of Congress are not parties to litigation, legislators play no direct role in the processes for seeking and enforcing a contempt order described

above. (Legislators sometimes seek to bring suit or intervene in pending proceedings, but the constitutional doctrine of [standing](#) may limit the ability of lawmakers to sue the executive branch.)

Nonetheless, if Congress believes that an executive agency or officer is acting unlawfully, it has several tools at its disposal. A [CRS Report](#) outlines in detail Congress's authority to influence and control executive branch agencies. Briefly, options include the following:

- **Investigative oversight:** Congressional [oversight investigations](#) are typically carried out by congressional committees and subcommittees, subject to applicable House and Senate rules. Congress's oversight authority includes the power to hold hearings, issue subpoenas, and depose witnesses.
- **Censure:** Congress may formally express [censure](#) or condemnation via resolution. Censure resolutions and other expressions of disapproval generally have no legal effect but may still influence the actions of agency officials who wish to avoid the political consequences of such measures.
- **Impeachment and removal:** The House may [impeach](#) federal government officials for "high Crimes and Misdemeanors," and the Senate may try impeachments and remove officials who are convicted. Constitutional text and historical practice establish that the impeachment power [applies](#) to the President, Vice President, federal judges, and "all civil Officers of the United States." Non-officer employees of the federal government are probably not subject to impeachment.
- **Funding limitations:** Congress controls the [funding of federal agencies](#) and can withhold funds from an agency if Congress disapproves of the agency's actions. Congress can also enact appropriations riders prohibiting the use of appropriated funds for certain purposes. Many changes related to funding would need to be enacted via legislation, meaning that they would require the support of the President unless Congress were able to override a veto. However, Congress could potentially exercise leverage in this area by declining to enact legislation to appropriate funds.
- **Changes to agency structure or authority:** Congress possesses substantial authority to [structure federal agencies](#) or regulate the [scope of their authority](#). If Congress disapproved of the actions of a federal agency in a certain area, it could potentially restructure the agency to change how the agency makes decisions or provide for additional oversight. Congress could also remove certain matters from an agency's jurisdiction. These changes would need to be made via legislation, meaning they would need the support of the President or a veto-proof supermajority in the House and Senate.

In addition to the powers listed above, which are shared by both chambers of Congress, the Senate may be able to use its [advice and consent](#) power to affect the executive branch. An exercise of this authority might take the form of refusing to confirm new nominees whom Senators believe would not act lawfully. The Senate could also withhold consent to new nominations in response to perceived misconduct by sitting executive branch officials.

While the foregoing assumes that Congress seeks to encourage the enforcement of court orders, it is also possible that an executive agency might decline to comply with a court order with which the agency disagreed and that Congress might agree with the executive branch's legal interpretation rather than that of the court. When a lower federal court has allegedly made a legal error, the usual remedy is an [appeal](#), and any appeal of an adverse ruling against the executive branch would need to be taken by the affected agency, not by Congress. If Congress disagreed with a court's interpretation of a statute's structuring or funding of a federal agency and sought to clarify how the statute should apply, or wanted to change the structure or jurisdiction of an agency to reflect current priorities of the executive branch, it could

potentially do so by enacting legislation. Congress could also legislate to [limit the jurisdiction](#) of the federal courts over these disputes.

Beyond the context of specific disputes involving the executive branch, Congress also has the authority to change the laws that apply to contempt of court generally. For example, Congress could amend the [contempt statute](#) to clarify what sanctions are available against the federal government.

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