

TRUMP AGAIN: NERVE-RACKING WAIT FOR INTERNATIONAL LAW

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Donald John Trump became the 45th President of the United States of America (USA or United States) in the 2016 presidential election, winning first place according to his country's electoral college method, despite trailing his rival by nearly 3 million votes. Trump's presidency was brought about by the rallying around him of the so-called "swing states", known for changing their voting preferences in every election¹. Although there is no broad consensus on his presidency, Trump, who held office between 2017 and 2021, has drawn an unusual image in domestic and foreign policy in the history of the United States.

Trump's aim is expressed as '*Making America Great Again*'. According to him, the policies pursued in the last century have weakened America economically and reduced its global influence. Again, in line with these policies, USA has signed many agreements that would impose disproportionate obligations on it, and as a result, it has reached a situation where it has not been able to get the return on the financing it has provided².

Nevertheless, according to some authors, this rhetoric and the policy that was subsequently implemented could not prevent the US from losing credibility³. In addition to Trump's attitude towards foreign countries, his approach to issues such as abortion, black rights and women's rights in domestic politics has stagnated the country's outlook on freedoms. As a result of all these, Trump, who entered the election race with Joe Biden, the popular Vice President of the Obama era, was defeated in the elections in 2020 and handed over his office.

After four years of the Biden era, the United States is once again on the eve of elections. In the days leading up to the presidential elections to be held at the end of this year, Trump is making significant progress in becoming the Republican candidate. In addition, many projections suggest that Trump to return to the presidency by 2025. In this article, we are taking a look at the steps Trump has taken during his presidency in line with these projections and analyse what might happen in a possible second presidential term.

1. What Happened in the Previous Period?

It is useful to analyse the Trump era in terms of domestic and foreign policy and to categorise foreign policy among itself. First of all, it should be mentioned that the global importance of the United States and its hegemony that started after The Great War⁴, has turned American domestic politics into the foreign policy of the world. For this reason, the country's foreign relations have been a reflection of domestic politics. Therefore, an overview of the domestic political developments of

¹ See also. Cambridge Dictionary: A state with approximately the same number of Democratic and Republican voters, which has a significant influence on the outcome of the election of the President of the United States of America

² BBC. (2016, March 27). *US Election 2016: Trump laments 'ripped off' America*. 2024 on British Broadcasting Corporation Website: Retrieved from <https://www.bbc.com/news/election-us-2016-35906493>

³ Wike, R. (2020, November 19). *The Trump era has seen a decline in America's global reputation*. Pew-Research Center Website on March 8, 2024: Retrieved from <https://www.pewresearch.org/short-reads/2020/11/19/the-trump-era-has-seen-a-decline-in-americas-global-reputation/>

⁴ Oran, B. (2019). 1919-1923: Kurtuluş Yılları | Uluslararası Ortam ve Dinamikler. In B. Oran (Ed.), *Türk Dış Politikası* (23 pp., Vol. 1919-1980, pp. 98-101). İstanbul: İletişim.

the period would make it easier to understand Trump's diplomacy.

1.1. Trump Era Domestic Policies

As mentioned, Donald Trump mentioned that the United States has made investments that are not worth the money spent. The result of this is reflected in the 'isolationism' policies in the first 100 days of his presidency. Trump's first 100 days promises are as follows⁵ :

- Build a wall on the southern border of the US and limit illegal immigration
- Re-evaluate trade agreements with other countries and put pressure on companies that conduct their business overseas
- Repeal the Patient Protection and Affordable Care Act (Obamacare)
- Remove federal restrictions on energy production
- Pressurising Congress to pass a term-limit amendment to the Constitution of the United States
- Instructing the Chairman of the Joint Chiefs of Staff to "develop a comprehensive plan to protect America's vital infrastructure from cyber attacks and all other forms of attack"
- Labelling China as a 'currency manipulator'
- Enact rules and regulations to address China's unfair subsidy behaviour.
- Instructing the US trade representative to bring trade cases

against China both in the US and at the WTO

- Use all lawful presidential authority to resolve trade disputes, including the imposition of a 45 per cent tariff to stop China's illegal activities, including the theft of American trade secrets

In addition to these policies, Trump elevated the Director of National Intelligence and the Director of the CIA to cabinet level, signed executive orders imposing travel bans and restrictions on refugees and immigrants from Muslim-majority countries, and ended the Obama-era interest rate cut for mortgages⁶.

In its ongoing economic struggle with China, it has also introduced subsidies, which it is not in favour of. In order to reduce the negative effects of this struggle, he provided \$12 billion in direct payments to farmers in July 2018 and increased the payments by \$14.5 billion in May 2019 after the trade talks with China ended without an agreement⁷. Expanding the sphere of influence of law enforcement, Trump also pursued a domestic security policy based on preventing human trafficking⁸.

In addition, Trump has also made symbolic appointments in some of the phenomena that he conceptually opposed. Following the model of Ronald Reagan in the 1980s, Trump has appointed leaders who are ideologically and/or materially hostile to

⁵ CNN (2016, November 9). *These are Trump's key promises for his first 100 days*. CNN Website on 9 March 2024: Retrieved from <https://edition.cnn.com/videos/world/2016/11/09/trump-100-days-orig.cnn>

⁶ CNN, 2016

⁷ Reuters. (2019, March 11). *Trump budget proposes steep subsidy cuts to farmers as they grapple with crisis*. Reuters

Website on 9 March, 2024: Retrieved from <https://www.reuters.com/article/us-usa-trump-budget-usda-idUSKBN1QS28Z/>

⁸ Huffpost. (2020, November 18). *DOJ's Watchdog Knocks Department On Lax Police Oversight, Urges 'Swift' Federal Action*. Huffpost Website on 9 March, 2024: Retrieved from https://www.huffpost.com/entry/doj-trump-police-oversight_n_5fb53eafc5b695be82ff01b9

the American mission to various positions⁹. For example, Trump appointed former Texas Governor Rick Perry, who was against energy policies and proposed to close the Department of Energy, as the Secretary of Energy.

Trump is the first US President to be subjected to ‘impeachment¹⁰’ process twice during his administration. The first impeachment process was initiated by the allegation of Russian influence in the 2016 Presidential Elections and the second impeachment process was initiated by the attack on the Capitol¹¹. As it is seen, during the Trump era, American political institutions have been in such a close relationship with the President, perhaps for the first time. This relationship has sometimes led to a strong rivalry and sometimes to the overlapping operation of constitutional actions.

1.2. Trump Era Foreign Policy

It is useful to open this heading through sub-headings, even with brief descriptions: European Union (Union or EU), Russia and China. Although the view towards Russia and China has not changed much during the Trump era, except for the criticisms of détente towards Russia, the European Union policy has become harsher. In fact,

Trump’s attitude, which is far from diplomatic sensitivities, has necessitated a reconsideration of the ‘*European Security and Defence Policy (aka The Common Security and Defence Policy)*’. For the aforementioned reason, we convey the EU relations by the point of Transatlantics, including Russia and Iran, and the Chinese relations, which came to the fore at that time, to be covered under another heading in the text. We are having to make the last sentences on Trump’s foreign policy by listing the developments in international law during his administration.

1.2.1. Transatlantic Relations in the Trump Era

It is stated that Trump is close to the ‘*Jacksonian*’ Perspective¹², one of the four main American Foreign Relations Approaches. The reflection of this perspective on EU relations has been to emphasise the theory of “*Principled Realism*” as he calls it. Trump aims to follow a doctrine built on common values and common interests, where common interest and a policy of balance are motivating for co-operation¹³.

These balancing efforts were embodied in the form of increasing the weight of the US side of the scale. The main crises that

⁹ Miller Centre (no date). *Donald Trump: Domestic Affairs*. Miller Center Website on March 9, 2024: Retrieved from <https://millercenter.org/president/trump/domestic-affairs>

¹⁰ Impeachment is the name given to the process operated by Congress in American law to remove individuals from government for certain offences. It is similar to the Supreme Court judgement in Turkish law. For further reading see: <https://www.usa.gov/impeachment>

¹¹ For further reading, see: The White House (2017). *National Security Strategy of the United States of America*. National Publication, Presidency of the United States, Washington, DC. Retrieved on 18 March, 2024 from <https://s3.documentcloud.org/documents/4332186/12-2017-National-Security-Strategy.pdf>

¹² It is generally accepted that there are four main foreign policy traditions in the foreign policy of the United States of America. These are the Wilsonian tradition beginning with Woodrow Wilson, the Hamiltonian tradition following Alexander Hamilton, the Jeffersonian tradition following the policy of Thomas Jefferson, and the Jacksonian tradition created by Andrew Jackson and followed by Donald Trump. For further reading, see: Hamilton, D. S. (2017). *Trump’s Jacksonian Foreign Policy and its Implications for European Security*. *Ulbrief*(2), pp. 1-8.

¹³ Ünaltdılar, Ünaltdılar, S. (2020). *Donald Trump Döneminde Avrupa Birliği-ABD İlişkileri: Liberal Dünya Düzeni, Krizler ve Ayrışan Politikalar*. *Avrupayı Tartışmak: Dünü, Bugünü ve Yarını* (pp. 224). Istanbul: Marmara European Studies Conference.

emerged during the period can be summarised as follows¹⁴:

- The US withdrawal from the nuclear deal with Iran and pressure on European states that have increased their investments in Iran
- The US decision to move the Israeli Embassy from Tel Aviv to Jerusalem
- Friction with European states, especially Germany, which do not increase their military expenditures to 2% of GDP
- Increasing taxes on trade with European states
- Trump's abandonment of the G-7 Summit in 2018
- United States support for the Brexit process
- US withdrawal from the Paris Climate Accords

During his presidency, Trump also pursued a policy of diplomatic impoliteness, especially towards European leaders. It was in line with this policy that he did not shake Merkel's hand during a meeting in the Oval Office, imitated Macron at a press conference, and referred to Queen Elizabeth as a 'lackey'. This behaviour from Trump has forced European states to adopt a more autonomous structure. In fact, **the European Security and Defence Policy (ESDP)**, which had been idle for many years, **was revived** during the Trump era.¹⁵ Although the investments made for ESDP are still not at a level deemed sufficient¹⁶, it has been an important counter-step in terms of Europe's Trump politics.

1.2.2. US-China Relations During the Trump Era

The relations that the US has developed with China are in fact the subject of a rather recent process. The 19th century, when the rivalry with Europe turned into a partnership, and the 20th century, which was characterised by the struggle against anti-communism after World War II, delayed the establishment of these relations. In fact, no official dialogue was developed between the two countries until the Nixon administration that started in 1969¹⁷. After this date, the United States, which did not want to miss the rise of China and wanted to open a safe space for Japan and Korea, took advantage of Russia's threats against China and initiated official relations. Although the relations started on a positive note, it was observed that the communist regime in China pushed the United States to act hesitantly and cautiously.

The fact that China has become a problem in American foreign policy is not due to military and ideological motives, as in the case of the USSR, but to the level of the country's economic development. This issue, which first attracted institutional attention during the Obama era, has become one of the main policies of the Trump era. The "America First" slogan, which came to the fore between 2017 and 2021, also explains the new tariffs against China, which appeared in March 2018 at 10% for imported aluminium and 25% for imported steel¹⁸. During this period, Trump recalled American companies in China and

¹⁴ Ünalıdır, 2020, p. 240 et seq.

¹⁵ Görgen, A. (2021). US-EU Relations in the Trump Era: Quest for Autonomy in Europe. *Journal of Atatürk University Institute of Social Sciences*, 25(4), p. 1382

¹⁶ Ünalıdır, 2020, pp. 238, 239

¹⁷ Karadaş, B. (2022). ABD Dış Politikasında Çin: Donald Trump Dönemi. *Turkish Journal of Policy Studies*, 2(1), p. 52.

¹⁸ Karadaş, 2022, p. 53

tried to forestall the trade deficits against China¹⁹.

1.2.3. Developments in International Law During the Trump Era

Eventually, Trump enacted a series of inward-looking policies, noting that his country was running huge trade and political deficits vis-à-vis its partners:

- Withdrawal from the Optional Protocol concerning the Compulsory Settlement of Disputes annexed to the Vienna Convention following the embassy crisis in 2018
- Announced that the Arms Trade Treaty (ATT), which aims to regulate the international trade in conventional arms, to not be ratified
- Unilaterally cancelled the 1955 Treaty of Amity, Economic Relations and Consular Rights with Iran
- Withdrawal from the Intermediate-Range Nuclear Forces Treaty and the Open Skies Treaty with Russia
- Withdrawal from UNESCO
- NATO spending cuts
- Disinvestment in the UN Relief and Works Agency for Palestine Refugees in the Near East
- Withdrawal from the UN Human Rights Council

These steps constitute the main concrete examples of Trump's policies²⁰. It can be said that Trump bases international law not on reciprocity but on American supremacy. During his term, many agreements were either redesigned with financial threats or abandoned. Trump has criticised the

structure of the World Trade Organisation²¹ after tensions with the EU, saying that it should reduce the share of developing countries²². Describing the North American Free Trade Agreement (NAFTA) as "the worst trade deal ever made", he paved the way for the USMCA, which is more beneficial for his country.

1.2.4. Impact of the Events on the 2020 Presidential Elections

This process has shown that America intends to withdraw from the world stage and become isolated. This is both Trump's wish and the natural reaction of important partners to his policies. The economic problems caused by the pandemic and deepened by high taxation, intense attacks on human rights -the mass movements following the death of Ruth Bader Ginsburg reveal the sensitivity of citizens on this issue²³- and the impeachment process in Congress resulted in the Trump term not being extended for another term. In 2020, Trump, who entered the election race with the Vice President of the previous term, Biden, lost the total number of votes, which he had failed to achieve before, together with the majority. In an act that summarises his administration, Trump did not attend Inauguration of Biden.

2. Developments in International Law in the Biden-Harris Era

Joe Biden has started a period of picking up what has been destroyed and rebuilding. Biden, who served as Obama's Vice President for eight years, has displayed an attitude that basically continues these

¹⁹ Ünaltdılar, 2020, p. 245

²⁰ Kırdım, Ş. E. (2021). Uluslararası Hukuk Savaş Halinde: Trump Yönetiminin Uluslararası Hukuk Yaklaşımı Üzerine Bir İnceleme. *İnonü University Law Review*, 12(1), pp. 150 et seq.

²¹ Görgeç, 2021, p. 1383; Ünaltdılar, 2020, p. 245

²² Kırdım, 2021, p. 152

²³ CNN. (2020, September 18). Ruth Bader Ginsburg's most notable Supreme Court decisions and dissents. CNN Website: Retrieved from <https://edition.cnn.com/2020/09/18/politics/rbg-supreme-court-decisions-dissents/index.html>

policies. Since the years with Trump have shaken the international relations and image that had improved during the Obama era, priority has been given to closing the gaps here. In this context, in Biden's ongoing presidency,

- The Paris Climate Accords is back on track,
- The decision was taken to return to UNESCO and pay the debts,
- NATO spending has been increased,
- Re-joined the UN Human Rights Council,
- The UN Palestine Agency has become active again.

In addition to the aforementioned, California Senator Kamala Harris became the first African-American and the first woman Vice-President of the United States. During this period, she worked for the popularisation of abortion, the protection of women's rights and the weakening of violence against blacks. The two have also maintained a harmonious administration with European leaders. On the other hand, the US has not lifted some tariffs, a legacy of the Trump era, and has not returned to some international agreements. Some authors have stated that Biden is satisfied with the status quo.

2.1. Trump's Discourses on the Biden-Harris Era and New Term Promises

The 45th President of the United States expressed that his rival Biden strengthened Russia-China cooperation²⁴, left Israel alone²⁵, and that his mental health is not sufficient for the Presidency²⁶. In his statements on NATO, he stated that he would not protect non-paying countries. It is possible to categorise Trump's new term promises under several headings²⁷:

- Organising the largest deportation operations against migrants in history
- Introduce measures against drug traffickers, including the death penalty
- Abolish the Ministry of Education and hand it over to the locals
- Definitive repeal of Obamacare
- The dismissal of Marxist prosecutors and the appointment of conservative jurists to the judiciary
- Failure to protect from Russia those countries that do not provide sufficient financial support to NATO
- Ending the Russian-Ukrainian War
- Introduce the '*Trump Countervailing Trade Act*' and impose high penalties on China and other importing countries
- Abolition of policies on gender equality

²⁴ TRT Haber. (2021, April 20). '*Trump'tan Biden'a 'Rusya' eleştirisi: Çin'in ellerine itiyorsun*'. TRT Haber Website: Retrieved from <https://www.trthaber.com/haber/dunya/trumptan-bidena-rusya-elestirisi-cinin-ellerine-itiyorsun-574232.html>

²⁵ Al Jazeera. (2024, March 6). *Trump's Gaza comments highlight tough choice for peace-supporting US voters*. Al Jazeera Website: Retrieved from <https://www.aljazeera.com/news/2024/3/6/trumps-talk-on-gaza-highlights-stark-choice-for-voters-in-us-election>

²⁶ The Guardian. (2023, September 18). 'Cognitively impaired'? Trump's confused attacks on Biden start to backfire. The Guardian Website: Retrieved from <https://www.theguardian.com/us-news/2023/sep/18/trump-biden-age-election-2024>

²⁷ CNN. (2024, March 6). 15 promises Donald Trump has made so far in his campaign for a second term. CNN Website: Retrieved from <https://edition.cnn.com/2024/03/06/politics/trump-campaign-promises/index.html>

3. Predictions on Possible Developments in International Law

Trump's first presidential term has been one of the periods in American history when international agreements have been on the agenda the least. By 2020, the number of international agreements submitted by Trump to the Senate could be counted on the fingers of one hand. In fact, his international policy is based on non-involvement, rather than an introversion. Indeed, his words regarding his withdrawal from the Paris Climate Accords in 2017, "*I was elected to represent the citizens of Pittsburgh, not Paris!*" are a product of this policy.

The 2017 National Security Strategy Document is the '*Trumpianisation*' of US politics. '*Principled Realism*', which is also the theoretical infrastructure of Trump's domestic and foreign policy approach, is included in this text. In the words of the text, Principled Realism is "*...based on the central role of power and the hope for a peaceful world of strong and sovereign states...*"²⁸. International law harbours an uneasiness arising from this document. First of all, the principles on which realism, which speaks of the existence of an anarchic system between states, to be operated in line with are unclear given Trump's political character. Moreover, the equality of sovereign states is not a Trumpian approach. Even the fact that American interests are protected equally with another state is a loss in his approach.

On the other hand, it is also difficult to define the West in the classical sense from the definition of powerful and sovereign

states. For him, the sovereignty of the USA remains as open-ended as the *Lebensraum* of the Nazis, when we remember that he forces France to repeal laws with a single word, depicts Germany as *a captive* of Russia and calls the Queen of England a *lackey*.

When the developments listed in the analysis and this document are considered together, it can be observed that Trump does not follow a Monroe-style isolationism, but he does not pour capital into unprofitable business by looking at international politics from a businessman's point of view. From Trump's perspective, legal texts are actually commercial contracts. Any contract in which America is not prioritised is a loss and should be changed or abolished. Since Trump's presidency for a new term is becoming more and more likely, it is necessary to analyse the new term in line with what is missing from the old term.

If elected, Trump is not be able to run for president once again according to the US Constitution. Therefore, he may not be expected to be as bold in his policies as he was in his first term. Likewise, the political movement he is part of desires a more active US in the world. For example, according to a survey, 62 per cent of Republican respondents stated that they support signing a trade agreement with Asian countries if it is designed to counter China's economic power²⁹. In Trump's first term, he ended the rapprochement with the Global South initiated by Obama, an approach contrary to his base. In these years, the Trans-Pacific Partnership was orientated towards China, damaging the

²⁸ For full text see: <https://s3.documentcloud.org/documents/4332186/12-2017-National-Security-Strategy.pdf>

²⁹ Schake, K. (2024, January/February). The Case for Conservative Internationalism: How to Reverse the Inward Turn of Republican Foreign Policy. *Foreign Affairs*, 103(1), pp. 77-87.

United States' trade volume. Considering that Trump himself has criticised the current Russia policy for strengthening China, it is likely that he to expand his Asian expansion.

It is understood from Trump's rhetoric that he shows a harsher reaction to the ongoing wars than the current administration. In terms of Israel, it is obvious that Trump would not rather to work with Netanyahu. For this reason, his withdrawal of his country from bilateral agreements with Israel is a prediction brought about by his previous practice.

Biden accused Trump of being "more pro-Russian than any American President". Trump himself has criticised NATO for pushing Russia to the Chinese side. In this respect, it is possible that we may encounter anti-China regulations in the new era in a way that not to alienate Russia politically. Ukraine's NATO membership not to be on the agenda until at least 2029, in which case Russia's military mobilisation to be somewhat mitigated. Since the main problem of the Paris Climate Accords for Trump is the US compensation for the damage caused by China to the world, it is conceivable that the US would withdraw from this agreement again. Moreover, it is also possible that Trump to take precautionary measures against the possibility of a second withdrawal.

The European policy of the United States would develop in a similar framework. The trade deficit of his country to the European Union, and most of all to Germany, is an important problem for Trump³⁰. Due to this policy, there would be talk of strengthening European Union law, defence cooperation and perhaps institutionalising it in a

structure independent of NATO. Merkel has already expressed her concerns in the first Trump era with the words "As Europeans, we must take our destiny into our own hands and fight for our own future."³¹

NATO's founding treaties would also be scrutinised in the new period. Since the low financial contributions of the member states caused a "dues crisis" between Trump and Merkel in the previous period, it is not a remote possibility that Trump would ask for the revision of the founding agreements in favour of his country's finances.

In the run-up to the second Trump era, the most anxious expectation in international law to be in the area of human rights law. It is likely that in the new era, the UN Convention on the Status of Refugees would at least *de facto* cease to exist for the United States. Again, the United States' departure from the UN Human Rights Council may be supported by a reduction in the representation of the United Nations High Commissioner for Refugees.

Trump, who sees the development of refugee law as a domestic security issue, also promises to pave the way for individual armament as *the 'most pro-gun president'*. In addition, since he aims to increase the rights of gun owners, this period is also contain within itself a second George Floyd trauma.

It seems that the hunger and water crises, which are becoming more evident day by day, to be of interest to Trump as much as their financial returns. For this reason, in Africa, which is one of the geographies where humanitarian aid is delivered the

³⁰ Ünalıdır, 2020, p. 244

³¹ Ünalıdır, 2020, p. 237

most, the transformation of American aid into an investment to be considered.

Another possibility is that, despite his criticism of Netanyahu, he would embrace the war crimes committed by Israel. Trump, who has also kept his country away from international judicial systems, would be able to extend this protection to Israeli officials. In addition, it is doubtful that Palestine's full participation in the UN to be on the agenda.

Conclusion

Ultimately, Donald Trump's second presidential term is unlikely to be as harsh as his first, but would complement it. If he wins, he moves to the White House for the last time, and his actions to either be as destructive but recoverable as in his first term, or they would be milder but irreversible in the long run. The prospect of a weakening of NATO's common goal in this period to push many international organisations, notably the EU, to new mobilisations. The US is already the largest financial supporter of international human rights mechanisms. Trump's reflexes in this area would visibly hamper the concrete development of human rights. Overall, what matters is not Trump, but the reactions to the post-Trump era. Countries would either deepen this period or repair it and move on. Still, with Donald Trump, we do not know what awaits us. One thing except we know for sure: human rights.

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