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**PRESIDENTIAL POWER IN FOREIGN POLICY  
AND MILITARY INTERVENTIONS.**  
Case Study of the Selected Examples, 1958 – Present

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*God granted us the serenity to accept things we cannot change, courage to change things we can, and wisdom to know the difference.*

[Reinhold Niebuhr]

A common knowledge shapes our perception of the world and forms our understanding of political phenomena. And almost everyone could agree with the argument that circumstances influence politics. The ebbs and flows in influence, power, prerogatives, performance, and activity of many political actors are an effect of changes in the world outside of them. But one may reasonably argue: what is the cause and what is the result? Is it really true the circumstances evidently, clearly have an effect on e.g. US presidential prerogatives? Or, quite contrary, is the actual, current politics as active as the presidents used their power? The article is about how the two worlds influence each other, what are the mutual connections between politics and political actors' powers.

The subject presented in the title of this paper seems to touch upon issues that are interesting for a number of reasons. Firstly, the above-mentioned sphere of interest has a very well specified, practical reference to reality. Military interventions (interventions undertaken by the United States in particular) have been attracting a lot of public attention and arousing emotions.<sup>1</sup> Secondly, the examples selected

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<sup>1</sup> This is one of the elements that differentiate such forms of state activity from treaty policy or nominations, which traditionally have not been regarded as relatively highly confrontational spheres.

are supported by access to comparatively well-documented sources. In this case – contrary to researching the issues of political leadership – we have, in principle, two opposite, clear possibilities: either the intervention took place or it did not. As a consequence of such a dichotomy such situations have to be included in the analysis. Therefore, it must be pointed out that covert operations have not been included in the research.<sup>2</sup> Thirdly, military interventions create a form of political activity that is being constantly updated, verified almost every day by the news from different parts of the world. Also, considering the extensive bibliography accessible, various analyses and interpretations of the problem being examined would seem to form an interesting intellectual challenge. It is necessary to look critically at the work of other researchers and to assume a standpoint with regard to the proposals made above.

#### METHODOLOGICAL/THEORETICAL NOTE

Without going into too an over-detailed analysis of the American presidency, several basic issues are well worth taking into consideration. A number of different examining perspectives are possible. The method involving an empirical approach seems to be the most promising.<sup>3</sup> This is indispensable to solving the problem under consideration.

As regards examining techniques, observation and a subsequent description were most frequently used. This is mainly for practical reasons; the data obtained may be presented to the reader in the most accessible form. Statistical data was also used in the research.<sup>4</sup> The inclusion of the latter complemented and illustrated the facts presented by means of observation and description.

The last of the techniques used – *the case study* – does not completely cover all the features of monographic research. Considering the general features of *the case*

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<sup>2</sup> A covert operation is understood in accordance with the 10/2 NSC directive, dated 18th June, 1948 as *an activity sponsored by the United States government against foreign states or groups that is so planned and executed that U.S. responsibility for it is not evident to the authorized person and that, if uncovered, the government can plausibly deny responsibility for the action*, from: DeConde, Burns and Logevall (2002: 387). The legal justification of this type of activity is very laconic: under the National Security Act of 1947, the CIA may *perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct*, from: *ibid.*: 391.

<sup>3</sup> This means using the following techniques: the case study (monographic research), typical sociological techniques and quantitative and statistical analysis.

<sup>4</sup> More detailed, see: Edwards III (1981).

*study* one should, however, keep in mind that there are serious limitations involved. The description and explanation of the rules governing one phenomenon, although capable of providing information on its status and dynamics, can nonetheless be regarded as insufficient in drawing conclusions of a more universal character. The use, within one analysis, of a series of cases and only then, on this enlarged basis, attempting to define relationships between them, may offer a solution to this matter. The controversy over the doctrinal use of *the case study* is enough for many to merit an approach from a distance. This is why the examples of political activity chosen by the author are assuredly not classic examples of monographic research, but only – for better or worse – a considered choice of certain fragments of political reality. One can speculate that this selection provides a series of data that is necessary for drawing logical conclusions and for manifesting certain regularity. Therefore, the above procedure fulfils the requirements of “combined” research – involving both the diagnosis of the particular elements of reality and the possibility to verify certain hypotheses of a more general nature. This process of combination is made on the basis of data obtained from the fragment of political reality examined (military interventions).<sup>5</sup>

Therefore, from the point of view of this analysis, the use of an empirical method seems to be the most appropriate. Within this method, most important are the research techniques, directed towards observation, and the analysis of normative acts as well as other written documents, developing data obtained from examining a series of examples originating from the period analyzed and techniques aimed at obtaining quantitative and statistical data. The empirical value is to be obtained based on conclusions and generalizations gained from observation, and then by attempting to interpret the material gathered.

Accepting such a procedure consequently involves determining whether the selected examples are relevant for the examined subject and, if so, why.<sup>6</sup>

Let us now proceed to determine what has formed the subject of the research and why. The necessity for such a determination results from the need to narrow the field of analysis to cases that can provide data from which conclusions from previously-made assumptions can be drawn. Such a step is indispensable in examining any sphere of political activity, including foreign policy.<sup>7</sup>

As indicated in the title, the subject of interest involves selected American military interventions. The basis of the analysis is the list compiled by the Foreign Affairs, Defense and Trade Division, Congressional Research Service, of the Library

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<sup>5</sup> Further reading on methodology in: Pika (1981/82). As regards using the *case study* in examining the presidency, more detailed in Edwards III and Wayne (1997: 483 and following).

<sup>6</sup> Compare with Barilleaux (1988: 4).

<sup>7</sup> See in Light (1993: 174) and Rohde (1994: 105).

of Congress.<sup>8</sup> The list includes the cases of US military interventions abroad between 1798 and 1999. The list only includes those actions that were taken in a situation of military conflict, or its probability. Consequently, the list does not include: actions connected with responsibilities of a military character resulting from activities within the UN or other multilateral organizations, covert operations, disaster relief, or routine alliance stationing and training exercises. The list includes interventions until 17th May 1999.

As regards the time span included in the research (1958–2003), it is determined by the global period of American foreign policy (the years after World War II). The first intervention complying with those determining factors denoted below marked the initial moment (1958). By analogy – the year 2003 closes the analysis, as it is when the last of the interventions took place – subject to appropriate measurements of a formal character and included in this study.

Apparently, reliance upon the Congressional Research Service list may raise justified doubts, especially if other, competitive compilations are to be considered.<sup>9</sup> However, it seems that the study used is the most comprehensible and – what is equally important – well-founded. Moreover, thanks to the formal measurements used, cases with a relatively low level of controversy have been avoided (assistance in disaster relief, peace-keeping operations within the UN) as well as cases which are dubious due to the way they were conducted (covert actions).

Summing up, the analysis is limited to cases of US military interventions abroad after 1958. Moreover, in connection with the fact that according to the Constitution and the statutory provisions (mainly *War Powers Resolution*, WPR) the war powers belong to the sphere of mutual competence of the President and Congress – only those interventions were included when the Capitol:

1. was informed on the steps taken,
2. reacted to such steps by applying the appropriate legally binding regulations as opposed to those of a merely informative character,
3. stated its position in a way other than just the financial regulations, which means including all other forms of giving consent to the use of military force, or a denial to grant consent, which in practice means passing appropriate resolutions.<sup>10</sup>

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<sup>8</sup> Grimmett (1999).

<sup>9</sup> See: Bickel (1991: 214-215).

<sup>10</sup> See: the Court of Appeal ruling in the *Mitchell v. Laird* case (488 F.2nd 611, 1973). The Court complied with the stand that the congressional consent to start military operations does not have to involve a formal declaration of war (*this is a discretionary matter for congress to decide in which form, if any, it will give its consent*). The above-stated conditions very much reflect the provisions laid down in WPR (PL 93-148). In this Resolution it has been stated that the president – as a Commander-in-Chief of the US Army – can send the American troops to battlefield, but only if:

The substantial reduction of the selected interventions followed the latter measure. Fairly often, *de facto* and *de iure*, the only binding reaction of Congress to executive activity was the passing of appropriation acts. With this, such important interventions – from a political point of view – as those in Korea (1950–53),<sup>11</sup> Cambodia (1970–75), Honduras (1986) or Panama (1989) are not included in the analysis.

The second of the categories excludes situations in which the Capitol “received information” from the White House, but at the same time limited its activity only to such a stage. Within this category the interventions resulting from the evacuation from Cambodia and Vietnam (1975), the *Mayagües* incident (May 1975) or the action to free the hostages held in the US Embassy in Teheran (April 1980) were excluded.

Also, the fairly numerous cases when Congress was never informed on the steps taken by the executive or was informed only after a delay exceeding the statutory stipulated limit (*War Powers Resolution*), were not included.<sup>12</sup>

Such a research perspective seems to evade certain methodological and theoretical problems. The first were mentioned earlier, the second category may be represented here by the disagreement concerning the definition of so-called “limited wars” and “full-scale wars.” The doctrine teaches that the first category includes cases when the Capitol has not approved presidential decisions. Apart from the doubts involved in such a standpoint,<sup>13</sup> its adoption would make it impossible to trace activities that had not been granted the clearly positive opinion of the legislative power.

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1. the declaration of war has been passed,
  2. the appropriate Resolution has been passed,
  3. there has been a threat to the security of the US territory or the US Armed Forces.

<sup>11</sup> The consent for the regular financing of the war in Korea was accompanied by accusations from senators and congressmen directed at president H. Truman for the usurpation of power and the infringement of the constitution, see: DeConde, Burns and Logevall (2002: 333–334). For a more detailed discussion of the discrepancies between the executive and legislative powers with regard to the Korean War see: *ibidem*: 515–516.

<sup>12</sup> e.g. Cyprus (July 1974), Korea (August 1976), Zaire (May 1978), Iran (June 1984), the Persian Gulf (1987), or Sierra Leone (May 1992).

<sup>13</sup> See for instance: Osgood (1979).

### RESEARCH QUESTIONS AND HYPOTHESIS.

A series of questions and hypotheses follow the above-stated sphere of interest. The main research problem concerns the issue referred to in the title, that is the powers of the President of the United States in foreign policy and military interventions (the independent variable, the basis of the research). Through the analysis of selected cases, it will be possible to answer the question as to whether the results of the research in any way support the theory concerning the change in the execution of presidential prerogatives over the years and the changing circumstances. This will make it possible to answer a number of additional questions:

Firstly, what is the significance of the number of actions taking place in the Capitol, which relate to the appropriate powers of the executive?

Secondly, is the party-affiliation factor important – i.e. is it important (and why) whether the President is a Republican or a Democrat?

Thirdly, is it true that Congress traditionally is more isolationistic than the executive is?

Also, is it important for the implementation of policy that it results from the fact that public opinion was informed and/or the legislative power was consulted? Another issue: was a change in the balance of power on an international arena of any importance? And in particular, is the process dynamic, with regard to the end of the Cold War?<sup>14</sup>

As it was mentioned earlier, the Constitution gives the appropriate power also to the legislature, so the answer to these questions may only be provided through an analysis of congressional reactions to attempts to use US armed forces by the President. The next logical step is to determine the factors that condition a particular standpoint adopted by the legislature (dependent variable – the results of specific conditions), and in particular:

1. What were the results of the vote in Congress?
2. In what way is the support, or the lack thereof, connected with the political shape of Congress and the White House?
3. Did the initiative to set forth appropriate legislation originate from the President or Congress, and the latter being the case, was it the action taken by the majority party or the opposition?
4. Were any consultations held with members of Congress?
5. Was public opinion informed about the events?
6. Was the action initiated as a result of US obligations under peace treaty stipulations or its functional substitute (a UN resolution)?

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<sup>14</sup> General comments on this subject can be found in: Thomas and Pika (1997: 136) and Ambrose (1991/92: 136–137).

7. Did passing of the joint resolution sanction the operation?
8. Was the intervention led in conjunction with allied forces?
9. Were there American victims before the introduction of US armed forces?
10. What position did the legislature take (approval/disapproval)?

Selected data, in accordance with the indicated set of criteria, form a basis to carry out the research process. The data is then subject to examination to determine whether or not there is a relationship with regard to the facts determined by the use of the dependent variables. As a consequence, we receive a systematic collection of data, which, if related to the questions asked, will bring the research process to a close.

The conclusions resulting from the study of other propositions should point to the following facts:

The President of the US should have been expected to enjoy a much greater freedom in the period prior to the passing of the War Powers Resolution (1973). Later, in turn, we should observe the curtailment of this independence, a process accompanied by enlarged congressional activity.

Moreover, it seems that the consensus of opinion of the President and Congress should increase in situations: (1) constituting a threat to the lives of American citizens abroad; (2) initiating intervention in the region of the Western Hemisphere; (3) executing responsibilities laid down in defense treaties; (4) involving the existence of a parliamentary majority from the same political party as the President himself.

## DATA PRESENTATION

Of all of the 110 items (from 1945 till 17th May 1999) included in the list of the Congressional Research Service, only the thirteen cases presented below were selected.

1. Lebanon (1958),
2. Cuba (1962),
3. Thailand and Laos (1962),
4. Vietnam (1964–1973),
5. Dominican Republic (1965),
6. Sinai (1982),
7. Lebanon (1982),
8. Grenada (1983),
9. The Persian Gulf (1990–1991),
10. Somalia (1992–1995),

11. Bosnia (1993–95),
12. Haiti (1993–94),
13. Kosovo (1999).

The remaining of the military actions were rejected, as they do not fulfil the criteria mentioned earlier. On the other hand, two more interventions were added to the above list: operations conducted in Afghanistan (2001) and the war in Iraq (2003).

Exceptional cases are the Formosa Resolution (1955)<sup>15</sup> as well as the Berlin Resolution (1962).<sup>16</sup> Although two of the cases fulfil the established criteria, they were omitted from this analysis. This was because no movement of additional US armed forces accompanied these decisions, since they were present in those regions of the world already. In other words, only those cases were taken into consideration which comply with the scheme: military intervention – congressional action (or vice versa) and are not restricted exclusively to one of the above elements (see the table below).<sup>17</sup>

**Table 1. Systematization of the cases presented in the analysis.**

<b>military intervention ⇒ congressional action</b>	<b>congressional action ⇒ military intervention</b>
Thailand and Laos (1962)	Lebanon (1958)
Vietnam (1964–1973)	Cuba (1962)
Dominican Republic (1965)	Sinai (1982)
Lebanon (1982)	Afghanistan (2001)
Grenada (1983)	Iraq (2003)

<sup>15</sup> Despite the threat of developing conflict (direct participation of the Chinese troops), the senators passed the appropriate act, with an overwhelming majority of votes 85:3, on the 25th of January (H.J. Res.159), known as the *Formosa Straits Resolution*. President D. Eisenhower was at the same time placed in a very favorable situation: he had not only the support of the legislature, but he was also allowed free choice of means and the scope of its use.

<sup>16</sup> In October 1962 Congress unanimously passed the Berlin Resolution, under which it was resolved to prevent all Soviet-caused infringements of American, British, and French interests in Berlin. Being “*an idealist without illusions*” (Sorensen, 1970: 397), president J. Kennedy applied for legislature support as regards his firm policy towards the Soviet Union. From the formal point of view, the Berlin Resolution (H.Con. Rep. 570) that was passed on the 5th of October in the House of Representatives and five days later in the Senate is worth giving attention to for two reasons. First, it was an effect of the initiative of Congress itself and, secondly, this was not a joint resolution of both chambers, but only a concurrent resolution, and therefore its importance was comparatively low and did not compel the executive to observe its provisions.

<sup>17</sup> The resolutions concerning Formosa and Berlin should be seen as complying only with the requirements of congressional activity.



<b>military intervention ⇒ congressional action</b>	<b>congressional action ⇒ military intervention</b>
The Persian Gulf (1990–1991)	
Somalia (1992–1993)	
Bosnia (1993–1995)	
Haiti (1993–1994)	
Kosovo (1999)	

As stated earlier, the selection of data for the analysis may raise doubts. However, it seems that with regard to the necessity of narrowing the subject of the research to a particular fragment of political activity, it is a matter for arbitrary, discretionary, subjective, decision. It was possible, though, to use a fairly wide perspective, indicated by almost all the post-WW II presidents, different party affiliations, different political situations in the US and in the world and the different character and significance of the interventions. The arguments adduced may form a subject of discussion.

However, it has to be pointed out that omitting certain interventions from the analysis (the Korean War, for instance) is also an act with a certain meaning. Namely, it turns out that widely spread military operations and increased diplomatic activity do not necessarily comply with the formal and legal side of the issue. It is not in all instances that the important events have had the appropriate authorization by law (in this case the proper authorization to send American troops into battle).

Before proceeding with the data analyses, two important issues should be mentioned: the resolutions and US membership in the United Nations.

As regards resolutions, they are treated as one of the forms of congressional assent to the executive to resume certain activities. When passed, the Capitol expresses an opinion on a certain issue; it constitutes a sort of incentive for the executive in playing an active role in a particular area of political activity. It has to be mentioned that simple and concurrent resolutions constitute a legal remedy, allowing Congress to express its political, non-legal will, and thus in the US legal and political system they do not constitute a binding law – they do not require the president’s signature. But the joint resolutions of both chambers entail a requirement that the executive follow their provisions. Regardless of the type, the resolutions may be passed on the initiative of the congressmen themselves, or the initiative may belong, indirectly, to the executive power.<sup>18</sup>

As regards the question of US membership in the UN, it was regulated in the *United States Participation Act of 1945* (PL 79-264). Section 6 of this act stipulates

<sup>18</sup> The first case occurred in 1919, when the Senate refused to ratify the Treaty of Versailles. The second case took place on the occasion of concluding agreements on the localisation of the UN, establishing UNRRA, IMF, FAO, WHO, or UNESCO. More detailed: Briggs (1991: 23) and Hammond (1992: 61).

the conditions for the participation of US armed forces in military action outside the territory of the United States. In the event that there is a necessity to lead action aimed at “maintaining international peace and security” the president may send an appropriate military force.<sup>19</sup> Such actions have, however, been conditioned by the need for the president to consult the UN Security Council on the number and character of the troops used, the destination of the troops, and details about the equipment and weapons to be deployed.

### DATA ANALYSIS AND INTERPRETATION

The basis for the data analysis and interpretation constitute the data presented in Table 2. Its analysis allows for the observation of a number of regularities.

Firstly, the allegation that Congress is more isolationist in comparison with the executive seems dubious.<sup>20</sup> Until the passing of the *War Powers Resolution*, the Capitol has always manifested more initiative than the White House. Military actions have been sanctioned prior to sending troops (the action in the Dominican Republic being an exception). Later, this was much more infrequent – the intervention in the Sinai Peninsula in 1982 and actions in Afghanistan and Iraq. Additionally, one has to remember that actions have almost always been taken with the consent of congressmen and/or public opinion. As regards the initiation of legislative activity, we face a situation in which the legislature has more frequently come up with projects to pass the appropriate regulations (11 cases out of 15 considered).

Secondly, the political party affiliation issue is more complicated than it at first may appear. Although, as a rule, senators and congressmen from the same political parties as the presidents almost always vote in accordance with the expectations of the executive,<sup>21</sup> the behavior of the opposition does not fulfil the rule of automatically taking a position against it.<sup>22</sup> We can talk about a “hard opposition” in reference to the voting on Lebanon (1982), the Persian Gulf (1991), Somalia (1993), Bosnia (1995), Haiti (1994), and Iraq (2002).

Thirdly, the end of the Cold War and the changes involved with this process seem not to have influenced mutual relations between the two centers of power located

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<sup>19</sup> *United States Statutes at Large*. (1945: 621).

<sup>20</sup> See: Ambrose (1991/92: 136).

<sup>21</sup> The only exception being the voting in the House of Representatives on the Bosnia and Kosovo military actions, when the Democrats voted against the proposition presented by President W. J. Clinton.

<sup>22</sup> The most vivid example is the unanimous support granted by the opposition when the Senate voted on the intervention in Grenada.

at Pennsylvania Avenue. The international situation has naturally influenced the debates in Congress, but the stability of certain solutions and procedures has not been much affected by the fact that there have been substantial changes in the international arena.

Also, it can be noted that the success of an action taken in Congress is independent of whether or not it had been informed earlier (or whether the public was informed) about the actions taken. We observe the following solutions:

- not informing Congress and yet attaining unquestionable legislative success (Cuba),
- not informing the public yet attaining success in Congress (Sinai),
- informing both Congress and the public and attaining success (the majority of the cases considered),
- informing both Congress and the public and failing (Bosnia).

As it can be seen, the rule: informing = success does not apply.

Also, the executive holding consultations is not a typical solution. This was so only in seven of the cases considered – both prior to and after the passing of the *War Powers Resolution*.

In all the cases considered, the legislative activity of Congress has *de facto* accepted the obligations assumed by the president. Only the level of this acceptance has varied: from almost a blind belief in the actions taken (e.g. initially Vietnam) to setting very rigorous requirements concerning the use of American troops (Lebanon'82, Grenada, Somalia, Bosnia, and Kosovo). This case is touched upon in more detail in the final conclusions.

Furthermore, it turns out to be the rule that actions have been taken on the basis of existing legal regulations. Such is the role – apart from the already-mentioned resolutions – of the international commitments of the United States, or UN resolutions. Only in two instances (Grenada and Kosovo) the actions took place in a situation when there were not sufficient legal bases.

It seems that the decisions of Congress have not been influenced by the existence of co-operation between American armed forces and military units from allied countries. On only three occasions (Lebanon'58, Cuba, Dominican Republic) has the US acted independently, which, considering the provisions set forth in the appropriate resolutions – have not entailed any hostile attitude of the Capitol.

The ideology and party affiliation factor has proven to be unimportant – the fact whether a president is a Republican or a Democrat is not generally in any way significant with regard to the implementation of particular commitments.

There is also no clear relation between victims being US citizens and the position adopted by Congress. Irrespective of whether or not there have been American victims in a particular country, the extent of congressional support and the pace of legislative actions have varied.

Table 2. Data presentation.

	Presidential party	Congressional voting		Was public opinion informed?	Were there: a treaty, an agreement, or a UN resolution before the action was taken?	Was there an ally?	Was Congress consulted?	Were there American victims prior to the action?	Was there congressional resolution before the action was taken?	Who initiated the legislative activity?*	Did Congress approve or disapprove of the action? **
		S	HR								
Lebanon (1958)	R	R – 42:3 D – 30:16	R – 164:27 D – 186:33	YES	YES	NO	YES	NO	YES	President	(+)
Cuba (1962)	D	R – 29:1 D – 57:0	R – 144:7 D – 240:0	YES	NO	NO	NO	NO	YES	Congress (+)	(+)
Thailand and Laos (1962)	D	R – 32:0 D – 56:2	R – 175:0 D – 241:0	YES	YES (Thailand) NO (Laos)	YES	YES	YES	YES	President	(+)
Vietnam (1964–1973)	D	as above	as above	YES	YES	YES	YES	YES	YES	President	(+)
Dominican Republic (1965)	D	—	R – 117:3 D – 195:49	YES	YES	NO	YES	NO	NO	Congress (+)	(+)
Sinai (1982)	R	voice vote	R – 160:9 D – 208:4	NO	YES	YES	NO	NO	YES	Congress (+/-)	(+)
<b>Lebanon (1982)</b>	<b>R</b>	<b>R – 52:3 D – 2:43</b>	<b>R – 140:27 D – 130:134</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>Congress (+/-)</b>	<b>(-)</b>
<b>Grenada (1983)</b>	<b>R</b>	<b>R – 25:20 D – 39:0</b>	<b>R – 147:16 D – 256:7</b>	<b>YES</b>	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>Congress (-)</b>	<b>(-)</b>
Persian Gulf (1990–91)	R	R – 42:2 D – 10:45	R – 164:3 D – 86:179	YES	YES	YES	YES	NO	NO	President	(+)

	Presidential party	Congressional voting		Was public opinion informed?	Were there: a treaty, an agreement, or a UN resolution before the action was taken?	Was there an ally?	Was Congress consulted?	Were there American victims prior to the action?	Was there congressional resolution before the action was taken?	Who initiated the legislative activity?*	Did Congress approve or disapprove of the action? **
		S	HR								
Somalia (1992–1995)	D	—	R – 3:170 D – 239:9	YES	YES	YES	NO	YES	NO	Congress (+)	(+/-)
Bosnia (1993–1994)	D	R – 24:29 D – 45:1	R – 221:11 D – 65:130	NO	YES	YES	YES	NO	NO	Congress (+/-)	(+/-)
Haiti (1993–94)	D	R – 40:3 D – 51:5	R – 19:150 D – 217:31	NO	YES	YES	NO	NO	NO	Congress (+)	(+)
Kosovo (1999)	D	R – 9:46 D – 13:32	R – 1:219 D – 1:207	NO	NO	YES	NO	NO	NO	Congress (-)	(-)
Afghanistan (2001–2002)	R	R – 47:0 D – 50:0	R – 214:0 D – 204:1	YES	YES	YES	YES	YES	YES	Congress (+/-)	(+)
Iraq (2003)	R	R – 48:1 D – 29:21	R – 215:6 D – 81:126	YES	YES	YES	YES	YES	YES	Congress (+/-)	(+)

\* In the case of the initiative taken by the Capitol, (+) and (-) apply respectively to the actions which have been initiated by the legislators from the same political party as the President, or from the opposition.

\*\* As actions of a restrictive character (set out in bold characters), those regulations were selected which involved detailed specification of the limitations concerning the number of US soldiers and/or the length of their stay in a particular region of the world. Consequently – as the selective criteria – the requirement to supply the Capitol with special reports was not called for.

S – Senate; HR – House of Representatives; D – Democrat; R – Republican

## CONCLUSIONS AND EXPLANATION

The analysis of the selected cases enables us to answer the question whether the results of the research can justify the hypothesis over time and in newly created circumstances in the realization of US presidential power. The cases presented in the analysis fall within the following two categories:

(1) The category defined by congressionally restrictive activity (Lebanon'82, Grenada, Somalia, Bosnia, and Kosovo) and non-restrictive activity (as in other interventions).

(2) It can clearly be noticed that within the first category fall interventions about which Congress was consulted (Bosnia being an example). On the other hand, however, the above requirement (consultation) is not a condition *sine qua non* for obtaining congressional acceptance.

In turn, in all five of the cases in which Congress acted restrictively, a president had initiated the action without prior statutory authorization. This could justify the thesis that Congress has a fairly unfavorable attitude towards over-active politics by the executive branch. The fact that the Capitol came up with an initiative to regulate the assumed actions later may be a confirmation of this.

As was previously mentioned, the party affiliation factor does not determine the adoption of a particular solution. A vote limiting actions can be reached both through the voice of the opposition (Grenada) and the ruling party (Lebanon'82). Moreover, this process is characteristic of both chambers.

The conducted analysis allows the following conclusions to be made:

1. One cannot unambiguously observe a change in the realization of presidential powers and thus the actual role of restrictive congressional activity (e.g. *War Powers Resolution*) is limited.
2. Changes in the balance of power in the international arena are not the fundamental determinants of congressional standing as regards the actions taken by the President.
3. There is no distinct connection between the approval of the Capitol and: the threat to the lives of American citizens abroad, initiation of interventions in the Western Hemisphere, realization of treaty commitments or the existence of a congressional majority from the same party as the president.
4. There are certain determinants that influence an unfavorable congressional attitude.

**Ad 1.** The "vertical" analysis of Table 2 clearly shows that the time category is accompanied by the differentiated values "YES/NO" and "President/Congress." Such differentiation is not unambiguously or clearly connected with the division into the periods before and after the passing of the *War Powers Resolution*. Naturally, it is not the author's intention to draw – as it seems too far-reaching – any conclusions

that the WPR provisions are unimportant. However, its importance is constantly verified by both the practice of political life and judicial review. But Congress, for many years, has not been capable of realizing the provisions stipulated in a number of acts based on the *War Powers Resolution*. Another issue which requires thorough study is the issue as to whether the legislature has (and if it does, what are they?) any effective means to persuade the executive power to adopt appropriate behavior.<sup>23</sup> The legislation – as potentially the most effective tool – seems, however, to be a factor of insufficient influence. The reason for this is because the legislative process takes time (not to mention the political will which is necessary to endorse a certain opinion), and actions connected with foreign policy, especially those involving military forces, often require immediate decisions to be made. This “legislative imperfection” also results from the fact that not all the possible situations within foreign policy may (or even need to) be regulated in this way.

**Ad 2.** As has been shown above, over the years we have had various solutions regarding the execution of possible scenarios of action in the international arena. Despite the fact that for many years the US has been acting in concert with its allies, this by no means results in Congress automatically accepting the action taken. Moreover, the analysis shows that the end of the Cold War has not substantially influenced the subject of this research. The main means to achieving particular goals is still a relatively stable system of allies and bilateral agreements. Thanks to this effective scheme it was possible for the US to pass smoothly from the international conditions of the Cold War (mainly determined by competing with the communist countries) to the different conditions of the present power-balance and the threats involved.<sup>24</sup> The reason for the above-outlined phenomena can be found in the fact that the American decisive mechanism in foreign policy, despite its dynamics, is still fairly “tight,” or resistant to the influence of lobbies. What is more, the external policy of the state is a long-term policy, prepared comprehensively and involving a series of issues. The practical scope of the realized policy (i.e. its effectiveness) seems to confirm such a diagnosis, especially in crisis situations such as the operations after the 11th of September, 2001 (interventions in Afghanistan and Iraq).

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<sup>23</sup> At this point it is worth mentioning that the post-WW II history of relations between the White House and the Capitol shows that, even in the issue of the consecutive fiscal acts, it is possible to have, naturally to a limited extent, a certain freedom in spending an approved sum. Foreign policy and the external security policy are spheres in which the temptation to treat allocated funds “elastically” are probably the strongest.

<sup>24</sup> Let us set aside investigations into whether the US is still a world superpower, or merely has a certain domination caused by the disappearance of the main Cold War enemy – the Communist Block. It has to be noted that, in general, assessment of a notion such as “power” is a relative issue – see: Ossowski (1983: 253).

**Ad 3.** The outcome of legislative activity is always dependent on a series of unique and specific factors – no rigid rules apply to the model of procedures; the solutions adopted are always related to the actual circumstances. These processes may be explained by the particular dynamics of the American political system. As with constitutional provisions, the issues discussed above are characterized (usually within the limits defined by the decisions of the Supreme Court) by a certain elasticity. Particular decisions, adopted solutions, and the implemented policy depend on unique determinants. There is no simple scheme, no automation of action which would operate according to the following: no treaty grounds, actions outside the Western Hemisphere, the majority of Congress being from a party other than that of the president means the restrictive attitude of Congress and attempts to limit the action taken. This changeability, temporality, and elasticity of activities cannot be treated as a synonym of instability or freely taken actions. As in the quoted example of the Supreme Court ruling, here we also have limits determining the freedom of action. The action taken always fits within a defined area that is determined by the provisions of law and constitutional practice. In other words, if we do not find ourselves within the sphere defined by the letter of the Constitution we at least find ourselves within a sphere defined by its spirit.

**Ad 4.** On the basis of the analysis, it can be anticipated that the biggest chance for an unfavorable congressional reaction will be in respect of those actions which were:

- (a) not consulted with congressmen and/or senators,
- (b) conducted under the exclusive prerogatives of the executive,
- (c) not preceded by the passing of appropriate resolutions, and
- (d) those (but only based on data from the period after the passing of the WPR) which will be implemented independently by the US without the assistance of allied forces.

Considering the data gathered, it can be noted that Congress usually specifies only the limiting date for American armed forces staying abroad and conditions about informing the legislature on the development of actions. Such decisions are in turn supported by the appropriate provisions in the appropriation acts.

It is generally assumed that Congress became more active in the sphere of foreign policy at the end of the 1960s and the beginning of the 1970s, and this activity allegedly took place because of the diminishing of the executive.<sup>25</sup> But the conducted analysis does not support the thesis that the events during these years

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<sup>25</sup> The center of gravity shifted to the examination of the results of this activity; see: Lindsay and Steger (1993: 112). However, apart from the veracity of concepts so far presented, the attempt to answer the question on the genesis of particular activities and the reasons behind the adopted solutions seems to be more important.

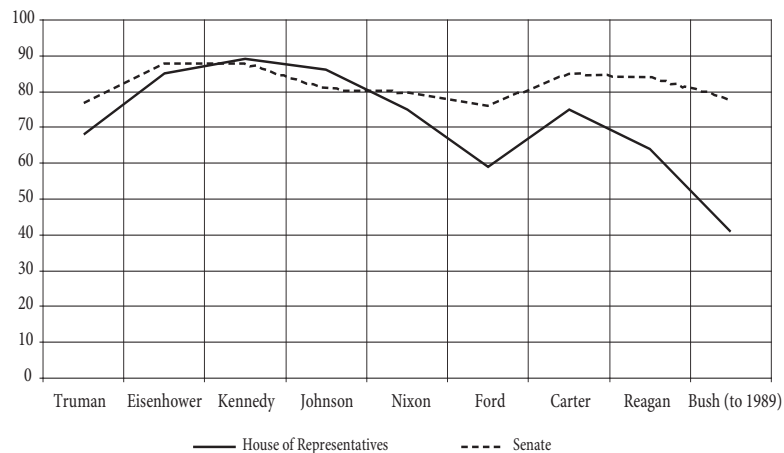


constituted any important turning point for the above issue. Even if it were the case, it seems – as time goes by – that facts from thirty years ago should be approached circumspectly. The passing of the *War Powers Resolution* and the series of subsequent, related regulations have not noticeably influenced the researched sphere of political activity except in the short-term perspective or limited as to the subject.<sup>26</sup> Thus, rules of behavior that would assume a more general regularity have not been developed. The five cases of the restrictive attitude of the Capitol cannot be considered as such since the circumstances accompanying those events and the relevant debates and voting differ considerably.

Also, the concept of the alleged relation between congressional approval of the initiated action and the threat to the lives of Americans or action taking place in the region of *Pax Americana* has not been supported by research.

However, the thesis about some obscure connection between the party affiliation in the White House and Congress, developed as a determinant of a mutual relationship between the two branches of government in the sphere of foreign policy, has been positively verified. To be more specific: even if it is possible to trace the symptoms of such a phenomenon, the systematic determination of its character becomes an open question. The President and the congressional majority being from the same political party and the reverse situation both have resulted in approving solutions. Therefore, the simple relationship: Congress and President from the same political party = success in voting on foreign policy, is not possible. This is shown in the chart below.

**Chart 1. Presidential success in voting on foreign policy (in percentage):**



\* 1989 only. **Data in:** McCormick (1992: 292).

<sup>26</sup> As goes for the *WPR* – primarily with regard to the informing policy.

<sup>27</sup> See reasons for the passive and amicable character of the legislature in: Fisher (1999: 258).

The experiences of the last fifty years seem to point out that the mutual relationship in foreign policy between Congress and President is a choice between an effective model (dynamic, active executive) and an ostensible one (co-operation of both branches).

Moreover, as the analysis demonstrates, consecutive presidents may enjoy a fairly wide freedom in the external policy-making process. This is certainly not the result of the strictly legal, exact understanding of the prerogatives stipulated in the Constitution. The American Constitution – especially in the issues concerned – locates executive power and legislature within a “checks and balances” system. It is a truism to declare that the power of the president is only the result of the provisions laid down in the Constitution. Accepting such a view, one could point out a lot more clauses which allow Congress to win such “constitutional bidding.”

The actual advantage of a president is “natural,” immanent – and results from the existence of specialized bureaucratic machinery, the possibility to make fairly quick decisions, access to specific information, and acting within a favorable environment to utilize such attributes. One cannot forget Congress itself. It has no possibility or, even more importantly, the will to limit the president’s freedom of action.<sup>27</sup> It seems that since the passing of the *War Powers Resolution* the Capitol has watched the executive more closely. But the period of (non-)adhering to the provisions of the above resolution also has instances of a more favorable attitude for the challenges taken by successive presidents in the international arena. Regardless of the adduced reasons for the phenomena discussed, it must be underlined that foreign policy falls within the responsibilities of the executive power, which, however, realizes its power with the co-operation of the legislature. Such was the intention of the creators of the American Constitution, and practice positively perpetuates these over two-hundred-year-old guidelines.

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