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R E P O R T

ON THE REGIME

OF PARLIAMENTARY IMMUNITY

Preliminary remarks:

1. This report, adopted by the Sub-Commission on Democratic Institutions on the basis of a draft report drawn up by Mr G. W. Maas Geesteranus with the assistance of the Secretariat of the European Commission for Democracy through Law, was approved by the Commission during its 27th meeting which took place on 17 and 18 May 1996.
2. The proposal to devote a study to parliamentary immunity originates from the representative of the Parliamentary Assembly of the Council of Europe, Mr Stoffelen, who submitted the topic to the Venice Commission during its 18th meeting.
3. In the opinion of the Commission, the request of the Assembly was indeed very much to the point. On the one hand, the topic of parliamentary immunity lies in the heart of the debate over the guarantees of parliamentary democracy in Europe given that the independence and satisfactory operation of parliament are essential to the separation of powers. On the other hand, the topic is of current interest in view of the tendencies in certain states to encourage elements of a "continuous democracy"¹, ie increased citizen control or participation.
4. As a first step in the course of preparing this report, a questionnaire was drawn up for submission to the members, associate members and observers of the Commission.
5. The Commission received replies from the following countries: *Albania, Austria, Belarus, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Portugal, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine*, together with *Canada, Japan* and *Kyrgyzstan*, non-European states represented in the Venice Commission.
6. The received replies were used to compile the summary tables presented in Appendix I.
7. In the preparation of this report, constant reference was also made to the study produced by the General Directorate for Research of the European Parliament in 1993, entitled "Parliamentary immunity in the member states of the European Community and in the European Parliament" (Legal Affairs Series, W-4).

¹ "Democratie continue" is a term coined by Dominique Rousseau, "Le Monde", 1 February 1996, p. 16.

8. Working from the tabulated information, it was possible to produce this report in a comparative overall perspective. It does not constitute an exhaustive analysis of the topic, nor does it purport to infer uniform and generally applicable principles, given the diversity and complexity of the national situations. However, it provides an analytical and speculative instrument containing, in a systematic way, information which is not always accessible, particularly for linguistic reasons.

9. The report accordingly gives an overview of the varying legal rules adopted and provides an initial basis for comparison as regards the subject-matter at Europe-wide.

I. Introduction

10. The need to afford parliamentarians special protection is recognised in all the states under consideration. However, this does not imply that the institution of parliamentary immunity has failed to attract numerous criticisms, or that any form of impunity should be secured to parliamentarians.

11. Notwithstanding the variety of terms and descriptions employed by national legislation and the scope of protection in the various countries, most European states recognise two categories of immunity for parliamentarians:

- firstly, the "non-liability" or "freedom of speech" of parliamentarians in respect of judicial proceedings over the opinions expressed and votes cast in the discharge of their parliamentary duties;
- secondly, their "inviolability" or "immunity in the strict sense" shielding them from all arrest, detention or prosecution without the consent of the chamber to which they belong.

12. The law of certain countries provides for a special jurisdiction with regard to offences committed by members of parliament. This is often the Supreme Court as in Spain or the Netherlands, the Federal Tribunal in Switzerland or the Court of Appeal in Greece. In other countries such as the United Kingdom and Malta, the House itself may perform functions of a judicial nature.

13. In some countries (France, Belgium), the provisions on immunity have public policy status, so that immunity cannot be voluntarily waived by any member and acts performed in breach thereof are void. Elsewhere it is for members to avail themselves of their immunity (Slovenia). They may in some cases even be able to refuse to testify, thus evading any attempt at preliminary investigation when in reality they are personally under suspicion (Belarus, Greece).

14. Immunity, with a different theoretical conception according to country, is designed to safeguard the "people's representatives" against arbitrary power. Consequently, it protects the legislature against interference from the executive or sometimes even from the judiciary. Parliamentary immunity ensures thus collective protection for parliament as a body, its operation and its acts, as well as individual protection for its constituent members.

15. It has been gradually extended to other persons:

- all persons participating in "proceedings in Parliament" in the countries with British-style institutions (United Kingdom, Netherlands, Ireland);
- members of the regional assemblies (Landtag) in Austria;
- members of the Community and Regional Councils and ministers in Belgium.

16. Nevertheless, in Germany parliamentary immunity applies solely to members of the

Bundestag, not those of the Bundesrat.

17. As a rule, the legal foundation of immunity is enshrined in the fundamental statutes of states. The principle is embodied in the United Kingdom's "Bill of Rights" of 1689 and in the Constitution of most other countries, more seldom in the law unless some aspect of this protection is completely omitted from the legislation in force.

18. The forerunner of parliamentary immunity in the true sense was a certain sacrosanctity of representative office; in Rome, the Tribune of the Plebs enjoyed the same inviolability.

19. The origin of parliamentary immunity as such can be traced back to the 14th century². As "freedom of speech" (irresponsibility) for parliamentarians, it was confirmed by the House of Commons at the early 16th century. At that time, the second aspect of immunity, namely "freedom from arrest" (inviolability), was prescribed only in the event of measures restricting personal freedom pursuant to civil actions.

20. With the French Revolution, protection was extended so as to be effective against court action in criminal cases and against any charge of a parliamentarian even for acts unrelated to parliamentary service.

21. These two aspects of immunity, as gradually defined in the French system, appear to recur today in most national legal systems.

22. The guarantees afforded by the two types of immunity (irresponsibility/ inviolability, "freedom of speech/ "freedom from arrest") are complementary. They should therefore be examined from the successive angles of their scope, the acts to which they relate and their implications in the event of wrongful use.

² *The member Thomas Haxey, during the session of the English Parliament from 12 January to 12 February 1397, submitted a bill denouncing the conduct of the Court of Richard II. He was tried and condemned to death for treason but the sentence was not carried out thanks to a royal pardon granted because of the pressure brought to bear by the House of Commons.*

II. Non-liability

23. "Non-liability" implies immunity against any judicial proceedings relating to opinions expressed or votes cast and is encountered in most national legal regimes for protecting parliamentarians.

24. It is termed, for instance, "berüfliche Immunität" in Austria, "Indemnität" in Germany, "freedom of speech" in Ireland, Malta, Canada, the Netherlands and the United Kingdom, "insindacabilità" in Italy, "inviolabilidad" in Spain and "Immunität/Irresponsabilité" in Switzerland.

25. Ukraine is the one country whose legislation contains no provision concerning this aspect of immunity and deals with protection strictly in terms of inviolability. In Russia, while the inviolability of Duma members has constitutional value as a principle, non-liability is prescribed only by law.

A. The principle: absolute character of protection

1. Purposes

26. In the first place, the principle of members' non-liability constitutes a special form of the protection which is arranged in order to guarantee independence and freedom of expression for parliament and its members, especially vis-à-vis the executive and the principle of separation of powers. The expediency of guarding against any arbitrary arrest of a people's representative by the government does not seem an immaterial concern still at now-days³.

27. In the second place, the principle of non-liability progressively acquires the further quality of an additional surety for parliamentarians vis-à-vis the majority opinion expressed in parliament itself. As representatives of the people which placed them in office, by holding even minority opinions they still express a portion of popular and/or national sovereignty, respect for which is central to the principles of pluralist democracy. This would imply that the real function of the institution of parliamentary immunity is to protect the expression of the common will and the composition of parliament as elected by the citizens⁴.

2. Scope of the principle of non-liability

28. As a rule, this type of immunity essentially relates to "opinions expressed and votes cast in the discharge of parliamentary duties". It is perpetual in the sense that the protection enjoyed by the parliamentarian regarding the opinions stated in the performance of an electoral mandate is not extinguished when the mandate ends.

³ Hermann Butzer, *Immunität im demokratischen Rechtsstaat*, Berlin 1991, p. 75.

⁴ Richard Wurbs, *Regelungsprobleme der Immunität und der Indemnität in der parlamentarischen Praxis*, Berlin 1987, p. 21.

29. It protects parliamentarians against any sanction ordered by the State or by state bodies, as well as against private individuals and attempted unlawful influence. This affords them exemption from all court proceedings. The law of certain countries contains more specific provisions extending freedom from liability to all civil, criminal or administrative action or stipulating that a member of parliament may not be subsequently pursued, arrested, detained or tried.

30. By contrast, in Bulgaria for instance members are free from criminal liability only. In Slovenia, civil liability is also incurred for damage or injury of which they stand accused. In France or Norway, parliamentarians are not liable and are not compelled to make redress even where "the acts charged constitute an offence or cause damage".

3. *Acts covered by immunity*

31. Parliamentarians have absolute privilege of non-liability as regards the ballots in which they participate, whether in the chamber or in the parliamentary committees or sub-committees.

32. Nor are they held accountable for the opinions expressed, whether orally or in writing, in parliament or in a parliamentary committee, or for acts performed on business assigned by the parliament in connection with their mandate.

33. The exact breadth of immunity and the acts which it covers have been specified by parliamentary practice and by jurisprudence. In particular, a more or less restrictive interpretation depending on the country has been used in defining the acts or circumstances which would come within the ambit of "performance of the mandate" or "parliamentary functions".

34. For many states, these are purely functions performed in parliament, ie in the session chamber or in the committees or bodies set up for session purposes. In the United Kingdom the acts covered by immunity are "proceedings in Parliament" as defined over the years by parliamentary jurisprudence. The same opinions expressed outside parliament (Luxembourg), or sometimes the same written statements in breach of the rules applying to the publicity of proceedings (Belgium), do not come within the scope of immunity. In Turkey, the same statements repeated outside parliament also enjoy immunity, unless the Bureau of the Grand National Assembly decides otherwise.

35. In Moldova, on the other hand, this immunity concerns the "acts which a parliamentarian and nobody else may perform in parliament". In Norway or the Netherlands, however, it concerns political opinions expressed even outside parliament.

36. In Portugal, Turkey and Norway, there is immunity even for "offences of defamation". In other countries, though, the constitutional text excludes any defamatory statements or insults.

37. Non-liability sometimes extends to the activity and/or behaviour of members of parliament which, while not constituting acts specific to parliamentary office, are in some way related to it. Consequently, parliamentarians' enhanced freedom of expression extends to their public non-parliamentary activities, in particular on the media, in election declarations and in public debates. In other cases, "political and partisan activity" as in Luxembourg and also in

Italy or, as in Spain, "statements made in the context of meetings of parties or with constituents, private encounters or journalistic activities", are excluded from the coverage of immunity.

B. Qualification of the principle of non-liability

38. It is widely observed that although the protection instituted is absolute with regard to the ballots in which members of parliament vote, they do not have quite the same guarantees for their opinions expressed in or out of parliament.

1. Relativity of the protection instituted: areas excluded from protection

39. In general, defamatory or insulting remarks are excluded from the scope of immunity, in which case members can be sued and subjected to compensation in the same way as other citizens. In the United Kingdom, it rests with the court to suspend proceedings when it considers that parliamentary privilege is involved. Nonetheless, it is often the disciplinary authority of the chambers which censures a member for conduct or statements which are unreasonable "having regard to his office and status".

40. In Austria, for instance, a member is accountable only to the Chamber to which he belongs, and incurs only disciplinary measures at the discretion of the Speaker.

41. In the Slovak Republic, members remain subject to the disciplinary authority of the National Council of the Slovak Republic in the case of "declarations unbecoming their position and reputation". In Latvia, disciplinary measures can be taken for "deliberate spreading of slanderous information; defamation relating to private or family life".

42. In Spain, acts of violence against persons or property are excluded even if committed inside the parliament. So are statements made in the context of meetings of parties or with constituents, private encounters or journalistic activities.

43. In Ireland, certain offences such as treason, serious crimes and public order offences are excluded from the coverage of immunity.

44. While they are not amenable to criminal justice (or to civil justice in general), parliamentarians are subject at least to the disciplinary authority of the chambers, exercised by the Speaker, in accordance with the Rules of Procedure. The provisions governing the applicable measures are more or less precise in this regard. Penalties vary from one country to another: they range from call to order or curtailment of speaking time (Austria) to expulsion, and in theory may even entail imprisonment (United Kingdom).

45. In some countries parliament has added powers in this respect and even performs judicial functions. In the United Kingdom for instance, the Houses are entitled to hold inquiries and to examine witnesses, to penalise persons (Members and others) guilty of abuse of privilege or contempt, and to publish documents without fear of libel action. The House alone may impose penalties or take decisions in this matter.

46. The same used to apply in Malta until the legislation was brought into line with the requirements of Article 6 para. 1 of the European Convention on Human Rights as interpreted in

the Demicoli case by the European Court of Human Rights in Strasbourg⁵.

47. In Malta, members are subject to the disciplinary authority of the House of Representatives for infringing its Rules or vexatiously interrupting the conduct of its business.

2. *Lifting of the parliamentary immunity relating to non-liability*

48. The lifting of "non-liability" immunity would normally be precluded by its nature if it were to restrict the freedom of speech of parliamentarians. Yet some countries prescribe a procedure for this purpose. The countries where immunity can be lifted are Denmark, Finland, Czech Republic, Germany, Greece, Hungary, Malta, Netherlands, Switzerland and United Kingdom.

49. In Denmark, the proposal to lift immunity is made by the private individual who considers himself wronged by what the parliamentarian concerned has said outside parliament, in the private sphere, although in practice the Folketing invariably withholds its consent.

50. In Finland the proposal to lift immunity is made by the person competent to do so depending on the circumstances, ie the police officer, the prosecutor or the plaintiff, and the decision to lift immunity is taken by a majority of 5/6 of votes cast in parliament.

51. In Greece the decision to lift immunity is taken by the Chamber, which must decide within 45 days.

52. In Hungary, the proposal to lift immunity is submitted to the President of the National Assembly by the Procurator General, or by the competent court. The request is considered within 30 days by the Committee on Parliamentary Immunities and Incompatibilities. The decision is taken by the National Assembly without debate and requires a two-thirds majority of the votes of members present.

53. In Malta, where, according to the common-law system, there is no lifting of immunity strictly speaking, the Speaker of the House refers to the Committee of Privileges any cases of "breach of privilege" or contempt committed *prima facie* against the Parliament. The Committee of Privileges was set up in order to investigate in each case whether a member has committed contempt or acts in excess or breach of his privileges. The Committee then refers the matter to the House, which has competence to either bring the person concerned to justice or impose its own disciplinary measures.

54. In Romania, immunity may be lifted only by the Chamber to which the parliamentarian belongs. The decision is taken by the Senate by a majority of a two-thirds of the votes of members present and by the Chamber of deputies by a majority of a two-thirds of the votes of the members. The proposal to lift immunity is submitted to the President of the Chamber of deputies or Senate by the Minister of Justice.

⁵ *Case of Demicoli v. Malta, judgment of 27 August 1991.*

55. In Switzerland, only "relative exemption from criminal liability" may be lifted, subject to the consent of both houses, which may bring the member before the Federal Tribunal. This exemption concerns offences committed in connection with the member's official activity or position, so as to exclude acts such as defamation, abuse of authority, dishonest management of public interests, acceptance of bribes, breach of the duty to fulfil the parliamentary mandate, and disclosure of military secrets. Lifting of a parliamentarian's privilege of secrecy regarding correspondence and telephone and telegraph messages also requires the consent of the chambers. In this case, the act or the opinion expressed is held to be unconnected with the member's official activity or position.

56. In Germany, where "anti-constitutional defamation" or "contempt of the Bundestag" are committed the requests of the prosecution are made in accordance with the rules of criminal procedure and administrative fines to the Federal Minister of Justice and submitted by the latter to the Bundestag for a ruling whether to authorise prosecution. By prior decision, the Committee on Electoral Scrutiny, Immunities and the Rules of Procedure may authorise prosecution for "anti-constitutional defamation" or "contempt of the Bundestag".

57. Moreover, a debate has been opened in this country on the question of the influence, whether or not politically admissible, wielded by political leaders and a new law has come into force for the prevention of corruption, buying and selling votes and trading in influence.

58. It must be acknowledged in concluding this section that, on balance, the system of protection instituted to safeguard parliamentarians' freedom of speech is fairly uniform in the countries considered. Except in cases of racist utterances by members, this particular aspect of immunity is not substantially debated or challenged. The same does not apply to the immunity established by way of inviolability.

III. Inviolability

59. This side of immunity certainly appears more complex in essence and occasions a far wider variety of legal arrangements for its application. Its justification seems more disputed than non-liability, so much so that in several states inviolability has long since vanished or is not contemplated in the system of protection established for parliamentarians.

60. Thus in Canada, Ireland, Malta and the United Kingdom there is question of inviolability only in civil cases, whereas in criminal cases parliamentarians enjoy no special protection and are treated on equal terms with other citizens. Indeed, members in the Netherlands enjoy no inviolability whatsoever.

61. In most other states, inviolability does protect parliamentarians in criminal cases. However, it is not very easy to ascertain any common features or to adopt uniform terminology owing to the dissimilarity of the procedures laid down and the relevant terms.

62. This form of immunity is called, for instance, "ausserberüfliche Immunität" in Austria, "Immunität" in Germany, "freedom from arrest" in Ireland, Malta, Canada and the United Kingdom, "immunidad" in Spain, "Sessionsteilnahmegarantie" in Switzerland.

63. In Italy this form of immunity was called "improcedibilità" until Article 68 of the Constitution was amended by Article 1 of the Constitutional Law 29 October 1993 n° 3. Following this amendment, the requirement of an authorisation to start criminal procedure against a member of the Parliament was repealed. On the other hand, the personal search of a member of the Parliament or the search of his domicile as well as his arrest, his detention in prison or the restriction of his freedom of speech is not allowed without the authorisation of the Chamber to which the member belongs.

A. The principle of inviolability

1. Scope of immunity

64. Inviolability constitutes another aspect of the effective protection of the parliament's members in order to guarantee its independence and shield them from any risk of arbitrary arrest. In general, it protects members of parliament from all "arrest" or prosecution unless parliament consents.

65. Under the common-law system of protection, as we have seen, inviolability operates only in civil cases.

66. In Austria, Germany, Kyrgyzstan, Latvia, Russia and the Slovak Republic, immunity also extends to "administrative action". In Moldova and Ukraine, it applies to all proceedings except such as are expressly provided for by law. In Romania, immunity extends to administrative proceedings concerning petty offences.

67. The effective scope of this immunity varies with the country. In some cases, parliamentarians are also immune from personal searches, house or office searches, preliminary enquiries and other investigations in general. This is the position, for instance, in Albania, Austria, Belarus, Georgia, Russia, Turkey.

68. By contrast, in other countries inviolability does not apply to measures of preliminary investigation or to the bringing of proceedings (France, Portugal, Japan). Often inviolability may take effect only from the time when the member is examined.

69. The duration of immunity likewise varies according to the country; in some it is confined to the parliament's session periods, while in others it applies for the complete term of the legislature. In Greece, the Constitution prescribes measures such as maintenance of immunity between the chamber's dissolution and reconstitution, or where martial law is proclaimed.

70. Be that as it may, inviolability merely serves to suspend legal proceedings during a member's term of office or the parliamentary sessions, not to obstruct the course of justice permanently.

2. *Acts covered by immunity*

71. In some countries, where the offence charged is of a certain gravity it is excluded from the scope of immunity and thus no longer calls for the prior consent of the chamber (as in Portugal and Sweden).

72. Likewise, such consent is not required where the member is apprehended *in flagrante delicto* (for most states) or detected while committing a serious offence (Albania, Bulgaria, Croatia, Cyprus, Finland, Norway, Portugal, Slovenia, Turkey) or the day after that of the crime (Germany).

73. In Hungary, Austria or Bulgaria, even if a member is arrested *in flagrante delicto*, the subsequent proceedings nonetheless may require the consent of the chamber concerned.

74. The classification of the act charged as "flagrante delicto" usually rests with the court, as in France and Spain. The Assembly may nevertheless suspend proceedings if it considers that wrongful recourse has been had to the exception of "flagrante delicto".

75. Furthermore, derogations from the rules of inviolability are prescribed for lesser offences (administrative fine offences in France).

76. Thus in Luxembourg inviolability does not prevent action from being taken against a parliamentarian for petty offences in respect of which the law does not prescribe pre-trial detention and which do not constitute dishonourable offences.

77. On the other hand, in such countries as Portugal petty offences are also covered by immunity although they do not come under criminal procedure.

B. Lifting of parliamentary immunity

1. Procedure for lifting immunity

78. The lifting of parliamentary immunity with regard to inviolability is constituted by the chamber's permission to institute criminal proceedings or to keep the member under arrest or in detention.

79. The procedure is the same overall except in Germany where there is a procedure of prior consent to prosecution through the passing of a general law when parliament first takes office.

80. Indeed, at the start of its term the Bundestag adopts a general decision authorising investigation of unlawful acts, excepting insults of a political nature. However, criminal proceedings subsequently require the consent of the Bundestag for each set of proceedings and each specific charge.

81. Elsewhere, procedure related to the lifting of immunity is usually contained in the parliamentary Rules of Procedure.

82. The proposal to lift immunity comes from the competent public authority (in most cases the public prosecutor), the injured party or the parliamentarian personally. Often the proposal is passed to the President of the Assembly through the Minister of Justice or even the Prime Minister.

83. It is then considered by an ad hoc or specialised parliamentary committee whose membership may vary in size and composition and whose function is to give an opinion after examining the member concerned.

84. The plenary chamber, after (or without) debate in closed (or public) session followed by a secret (or other) ballot, decides by simple (or qualified) majority whether or not to authorise the lifting of immunity (or to suspend any proceedings already instituted for the reasons discussed above).

85. Sometimes the chambers are required to deliberate within a prescribed time on the request to lift immunity. Parliament's abstention or silence on this score is variously interpreted; it often signifies suspension of proceedings and is therefore akin to a refusal.

2. Conditions attached to the lifting of immunity

86. These conditions are of an extremely varied nature. Most states concur in treating the decision to lift a member's parliamentary immunity as a purely political one.

87. This frequently implies that parliament holds discretionary power in the matter, as the only body capable of ruling on acts contrary to its sovereignty or independence.

88. In practice, a number of criteria have nonetheless been established, to guard against making the decision of the majority appear entirely arbitrary in turn.

89. Immunity must not sanction the impunity of members of parliament for offences committed by them, nor should it intentionally obstruct the course of justice and the proper functioning of democracy.

90. Parliament firstly carries out a strict scrutiny of the request as to its seriousness, sincerity and fairness, as well as timeliness (particularly when the parliament's term of office is drawing to a close) and procedural correctness.

91. Care is also taken to safeguard parliament's reputation, and public opinion is consulted in order to uphold the public order.

92. Requests for immunity to be lifted are nevertheless generally refused where there is cause to suspect the existence of *fumus persecutionis*, ie an intention to prosecute the parliamentarian unjustly and endanger his/her freedom and independence.

93. Likewise, when the reprehensible acts are of only minor gravity, parliament usually prefers not to grant lifting of immunity, deemed burdensome and unduly opprobrious.

94. In Albania and Belgium immunity is in any case not lifted without sufficient evidence that the member is the real culprit of the alleged crime.

95. In Bulgaria immunity is lifted when sufficient evidence of a serious crime has been obtained by the state prosecutor and then by the parliamentary ethics committee.

96. In Austria, immunity is lifted when the offence charged is manifestly unrelated to activities as a representative.

97. In Turkey, parliamentary decisions regarding the lifting of the immunity can be appealed to the Constitutional Court within one week by the member concerned or any other member, in which case the Constitutional Court makes a ruling within 15 days.

98. In all circumstances, at the stage when parliamentary immunity is lifted the presumption of innocence must be consistently respected, in order to avoid that the public believes the parliamentarian guilty, since according to the established case-law of the European Court of Human Rights this principle is binding not only on criminal courts but on all state authorities.

IV. Conclusion

99. On balance, the system established to protect parliamentarians' freedom of expression is fairly uniform in the various countries considered. Except in cases of racist utterances by members, this particular aspect of immunity is not substantially debated or challenged.

100. Immunity in the form of inviolability, however, appears more complex and generates a wider variety of legal provisions.

101. The institution of immunity as such is not in fact a subject of passionate debate in most countries surveyed. It reappears as a topical issue on the occasion of proceedings against members, particularly for corruption.

102. Parliamentary immunity continues to be an institution which assures members of their independence from other powers and their freedom of action and expression, although the relationship between the characteristics of the various powers has evolved considerably in the parliamentary democracies. It also protects parliamentarians from possible abuses by the majority.

103. But while the necessary compliance with the principle of separation of powers and the expression of the common will render it expedient to lay down specific rules for the protection of parliamentarians, it would be inconsistent with the principles of parliamentary democracy to make members immune from punishment for offences committed. The immunity thus instituted must, of course, not be such as to obstruct the course of justice.

104. In actual fact, the extent of the protection provided largely depends on parliamentary practice but also on the role of public opinion and the development of attitudes. The role of the press, together with a certain ethical sense, accordingly have a decisive effect on the application of the parliamentary immunity system.

105. Finally, in certain countries a tendency to regulate in law the conditions for lifting parliamentary immunity can be observed, or else an effort to define fixed, objective criteria as far as possible. This trend is prompted by concern for stricter application of the principles of rule of law and by the demands of safeguarding fundamental freedoms.

APPENDIX

T A B L E S
SUMMARISING REPLIES
TO THE QUESTIONNAIRE
ON PARLIAMENTARY IMMUNITY

Categories of parliamentary immunity	Albania	
	Non-liability	Inviolability
Legal basis	Constitutional laws of the Republic of Albania (Art. 22).	Constitutional laws of the Republic of Albania (Art. 22).
Scope of immunity	While "performing his parliamentary duties", the deputy is not liable for his activities and cannot be prevented from carrying out his duties.	Extra-parliamentary immunity: - with respect to search, arrest, detention and criminal prosecution; - except where the deputy commits "an obvious and serious crime".
Acts covered by immunity	Activities, opinions expressed and votes cast. But the deputy can be prevented from obtaining information which is a State secret.	All acts that may lead to search, arrest, detention and criminal proceedings, - except where the deputy had committed "an obvious and serious crime".
Persons covered	Deputies to the People's Assembly.	Deputies to the People's Assembly.
Duration of	-	The parliamentary session.

immunity		
Can immunity be lifted? By whom?	No.	Yes, with the authorization of the People's Assembly.
Procedure for lifting immunity	-	<ul style="list-style-type: none"> - The Public Prosecutor submits a proposal to lift immunity to Parliament according to the conditions laid down in constitutional law - The proposal is examined by a plenary session of the Assembly. - The decision to lift immunity is taken by a majority of the deputies present (not less than one third of them).
Conditions attached to lifting immunity	-	Immunity is not lifted if there is insufficient evidence that the alleged crime was committed by the deputy.
Possibility of appeal	-	-
Categories of parliamentary immunity	Austria	
	Non-liability	Inviolability
Legal basis	Constitution (Arts. 57, 58, 96); Rules of Procedure of Chambers and regional Diets.	Constitution (Arts. 57, 58, 96); Rules of Procedure of Chambers and regional Diets.
Scope of immunity	Parliamentary immunity. The deputy is liable only to the chamber of which he is a member and can be the subject of disciplinary measures only at the discretion of the Speaker of the Chamber, such as the call to order and curtailment of speaking time.	Extra-parliamentary immunity. <ul style="list-style-type: none"> - with respect to criminal and administrative, but not civil, proceedings; including not only criminal charges, sentencing and the execution of a sentence, but also any arrest, personal search, search of his resident, etc. - except in case of arrest in <i>flagrante delicto</i>.
Acts covered by immunity	Behaviour in sessions of Parliament, its committees and commissions, in particular written and oral statements as well as votes cast (vote can incur no liability whatsoever).	Protection from criminal and administrative proceedings. <ul style="list-style-type: none"> - for acts not covered by parliamentary immunity (general offences, motoring offences, defamation, even in the context of a political event outside Parliament or in a publication); - except for cases where the deputy is

		apprehended in <i>flagrante delicto</i> and for arrest.
Persons covered	Members of the First Chamber (Natiolalrat), the Second Chamber (Bundesrat) and regional Diets (Landtage).	Members of the First Chamber (Natiolalrat), the Second Chamber (Bundesrat) and regional Diets (Landtage).
Duration of immunity	-	-
Can immunity be lifted? By whom?	No.	Yes, in principle with the final approval of the Chamber after the Standing Committee on Immunities has expressed an opinion.
Procedure for lifting immunity	-	The request for consent to criminal or administrative proceedings is submitted to the Chamber concerned on the authority of the competent prosecuting authorities.
Conditions attached to lifting immunity	-	The alleged offence must manifestly be entirely unrelated to his activities as a deputy.
Possibility of appeal	-	Suspension of all proceedings if the Chamber declares that the alleged offence is not manifestly outside the deputy's political duties or, at the Speaker's request in the case of a person apprehended in <i>flagrante delicto</i> .

Categories of parliamentary immunity	Belarus	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 93); Law of the Republic of Belarus on the Supreme Soviet (Art. 106); Law on the legal status of the deputy to the Supreme Soviet (Art. 37).	Constitution (Art. 93); Law of the Republic of Belarus on the Supreme Soviet (Art. 106); Law on the legal status of the deputy to the Supreme Soviet (Art. 37).
Scope of immunity	In accomplishing his parliamentary duties.	Extra-parliamentary immunity - with respect to any arrest, prosecution or other deprivation of liberty, searches or telephone-tapping, - except for "detention on the scene of the crime".
Acts covered by immunity	"Activities" in the Supreme Soviet carried out in accordance with the Constitution.	Any act liable to arrest, prosecution or other kinds of deprivation of liberty, searches, - except in case of <i>flagrante delicto</i> .
Persons covered	Deputies of the Supreme Soviet.	Deputies of the Supreme Soviet.
Duration of immunity	During the period in which the deputy carries out his parliamentary duties and after its expiry.	For the duration of the parliament.
Can immunity be lifted? By whom?	-	Yes, with the consent of the Supreme Soviet or of the Speaker of the Supreme Soviet between sessions, in the case of criminal proceedings.
Procedure for lifting immunity	-	- The Public Prosecutor submits the proposal to lift immunity to the Supreme Soviet. - A decision passed by a majority of the members of the Soviet is transmitted to the Public Prosecutor.
Conditions attached to lifting immunity	-	-

Possibility of appeal	-	-
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Categories of parliamentary immunity	Belgium	
	Non-liability	Inviolability
Legal basis	Constitution (Arts. 44, 45, 59, 120, 124); Parliamentary Rules of Procedure (Art. 93).	Constitution (Arts. 44, 45, 59, 120, 124); Parliamentary Rules of Procedure (Art. 93).
Scope of immunity	<p>When carrying out his mandate, protection from acts of inquiry (complaints, denunciations, inquiries, preliminary investigation, searches, seizures) and criminal (public prosecution) and civil prosecution.</p> <p>As the provisions relating to immunity are a matter of public policy, deputies may not waive their immunity voluntarily.</p>	<p>Extra-parliamentary immunity in criminal law</p> <ul style="list-style-type: none"> - from prosecution, arrest, detention and civil imprisonment, - except in case of <i>flagrante delicto</i>. <p>As the provisions relating to immunity are a matter of public policy, deputies may not waive their immunity voluntarily.</p>
Acts covered by immunity	Freedom of speech; opinions expressed and votes cast (not insults or physical violence); the reproduction and distribution of speeches outside Parliament must be in accordance with the regulations for legal publication of Parliamentary debates.	All acts liable to arrest or criminal proceedings, such as: <ul style="list-style-type: none"> - crimes, offences, minor offences, - except where caught in <i>flagrante delicto</i>.
Persons covered	Members of Parliament, Ministers and all members of Community and Regional Councils.	Members of Parliament, Ministers and all members of Community and Regional Councils.
Duration of immunity	From the announcement of election results, with no time-limit for acts carried out during his mandate.	During the session of either Chamber; in practice, throughout the life of the Parliament.
Can immunity be lifted? By	-	Yes, with the Chamber's consent.

whom?		
Procedure for lifting immunity	-	<ul style="list-style-type: none"> - The proposal to lift immunity is submitted to the Speaker of the Chamber concerned either by the Public Prosecutor of the Appeal Court within whose jurisdiction the alleged offences were committed, or by the party claiming damages (<i>partie civile</i>). - The question of lifting immunity is examined by a special committee for each Chamber. - The decision to lift immunity is taken by a plenary session, usually by consensus, on the basis of the committee's recommendation, without debate as regards the Senate.
Conditions attached to lifting immunity	-	<p>Immunity is not lifted where:</p> <ul style="list-style-type: none"> - the facts are not serious; - the evidence of guilt is manifestly insufficient; - a political factor comes to light either during the proceedings or in the acts committed; - the proceedings are likely to hinder the exercise of the political mandate; <p>According to the Chamber of Deputies, for proceedings connected with political activity:</p> <ul style="list-style-type: none"> - the voluntary or involuntary nature of the act is immaterial; - the political nature of the grounds for the offence or its political context is taken into consideration, not the concept of "political offence"; - except where the act involved attacks on the person and renders unacceptable any delay in the reparation of damage caused.
Possibility of appeal	-	<p>If the prosecution or arrest was made without the Chamber's authorization, the Chamber can request their suspension during the session and throughout its duration.</p>

Categories of parliamentary immunity	Bulgaria	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 69).	Constitution (Art. 70); Rules of Procedure of the National Assembly (Art. 105).
Scope of immunity	Immunity in carrying out his parliamentary duties in criminal matters.	Extra-parliamentary immunity - with respect to the initiation of any investigation, arrest, criminal proceedings; - except when arrested in the act of committing a serious crime.
Acts covered by immunity	Opinions expressed and votes cast in the National Assembly.	All acts that may lead to arrest or criminal proceedings, - except serious crimes, with the Assembly's authorization; - except in the case of arrest when committing a serious crime.
Persons covered	Deputies of the National Assembly.	Deputies of the National Assembly.
Duration of immunity	-	-
Can immunity be lifted? By whom?	-	Yes, with the authorization of the National Assembly or, if it is sitting, its Speaker, to institute an investigation.
Procedure for lifting immunity	-	Where a deputy is arrested in the act of committing a crime, the Assembly is immediately notified. - The Public Prosecutor submits the proposal to lift immunity, with grounds, to the National Assembly, or to the Speaker if it is not sitting. - It is examined by the Commission for Parliamentary Ethics. - The decision is taken by the Assembly or, if it is not sitting, by the Speaker, whose decision it later confirms or overturns.
Conditions	-	Immunity is lifted where sufficient

attached to lifting immunity		evidence that a serious crime has been committed has been gathered by the Public Prosecutor and then by the Commission for Parliamentary Ethics.
Possibility of appeal	-	In the case of criminal proceedings, arrest committing a crime or authorization for instituting a preliminary investigation, the Assembly, or the Speaker when it is not sitting, may request its suspension.

Lifting Parliamentary immunity involves the deputy being barred from taking part in Parliamentary sittings, in the case of being forbidden to leave the country, arrest under arms, or house arrest.

Categories of parliamentary immunity	Canada	
	Non-liability	Inviolability
Legal basis	Constitution of 1867 (Preamble and Article 18); Parliament Act (Articles 4 and 5).	Constitution of 1867 (Preamble and Article 18); Parliament Act (Articles 4 and 5).
Scope of immunity	Immunity with regard to prosecution before the courts for what is said during Parliamentary proceedings.	Does not apply to civil or criminal matters.
Acts covered by immunity	Immunity with respect to legislative work, and what is said during debates.	All acts liable to civil proceedings.
Persons covered	Parliamentarians at every level of Government (central and provincial).	Parliamentarians at every level of Government (central and provincial).
Duration of immunity	Perpetual.	From 40 days before, to 40 days after, the parliamentary session.
Can immunity be lifted? By whom?	No.	No.
Procedure for lifting immunity	-	-
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Croatia	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 75); Rules of Procedure of the Chamber of Deputies, "Narodne novine", 99/95; Rules of Procedure of the Chamber of Counties, "Narodne novine", 55/95.	Constitution (Art. 75); Rules of Procedure of the Chamber of Deputies, "Narodne novine", 99/95; Rules of Procedure of the Chamber of Counties, "Narodne novine", 55/95.
Scope of immunity	Immunity with respect to any criminal proceedings or detention.	Detention and opening of criminal proceedings against a deputy only with the consent of the Chamber of which he/she is a member.
Acts covered by immunity	No criminal liability for opinions expressed or votes cast in Parliament (Croatian Sabor).	A deputy may be detained without consent of the Chamber only if caught in the act of committing a criminal offence which carries penalty of imprisonment of more than five years; in such a case the president of the Chamber is to be notified.
Persons covered	Members of both Chambers of the Croatian Sabor.	Members of both Chambers of the Croatian Sabor.
Duration of immunity	-	From the day of constitution of the Chamber to the day of expiry of the MP's mandate; between two sessions, the Parliamentary Committee on Mandates and Immunities decides on approval of detention or opening of criminal proceedings, later confirmed or overturned by the Chamber.
Can immunity be lifted? By whom?	No.	Yes, by the Chamber of which the deputy is a member.
Procedure for lifting immunity	-	- The proposal to lift immunity is submitted to the president of the Chamber by the competent state authority. The president shall forward it to the Parliamentary Committee on Mandates

		<p>and Immunities.</p> <ul style="list-style-type: none">- The question is examined without any delay by the Parliamentary Committee on Mandates and Immunities. The Committee submits its report to the Chamber at the next session.- The decision to lift immunity is taken by the Chamber and concerns the only areas for which it has explicitly been lifted.
Conditions attached to lifting immunity	-	Where the deputy has been apprehended committing a crime for which the sentence exceeds five years' imprisonment.
Possibility of appeal	-	-

Categories of parliamentary immunity	Cyprus	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 83).	Constitution (Art. 83).
Scope of immunity	Representatives shall not be liable to civil or criminal proceedings in respect of any statement made or vote given by them in the House of Representatives.	Extra-parliamentary immunity, - with respect to proceedings or imprisonment of any kind, - except in the case of an offence punishable with imprisonment for five years or more in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Activities, opinions, votes cast.	Acts liable to prosecution and imprisonment.
Persons covered	Members of the House of Representatives.	Members of the House of Representatives.
Duration of immunity	For the duration of the mandate.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	Yes, by the Supreme Court.
Procedure for lifting immunity		- The proposal to lift immunity is made by the Attorney-General of the Republic. The leave of the Supreme Court is not required in the case of an offence punishable with imprisonment for five years or more in the case of <i>flagrante delicto</i> . In such a case the High Court being notified forthwith by the competent authority decides whether it should grant or refuse leave for the continuation of the prosecution or detention.
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Czech Republic	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 27).	Constitution (Art. 27).
Scope of immunity	Freedom of speech, carrying out his parliamentary duties.	Extra-parliamentary immunity, - with respect to any criminal proceedings.
Acts covered by immunity	-	-
Persons covered	- Members of the Parliament - Senators.	- Members of the Parliament. - Senators.
Duration of immunity	- Life-time period.	- Life-time period.
Can immunity be lifted? By whom?	- No.	Yes, with the authorization of the Chamber.
Procedure for lifting immunity	-	- The proposal to lift immunity is submitted by the Parliamentary Committee on Immunities. - The Chamber takes the decision in accordance with Article 27 of the Constitution.
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Denmark	
	Non-liability	Inviolability
Legal basis	Constitution (Act. 57).	Constitution (Act. 57).
Scope of immunity	Immunity with respect to all liability within Parliament (the Folketing).	Extra-parliamentary immunity, - with respect to proceedings or imprisonment of any kind, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Opinions, votes cast.	Acts liable to prosecution and imprisonment.
Persons covered	Members of the Danish Parliament.	Members of the Danish Parliament.
Duration of immunity	Unlimited.	For the duration of mandate.
Can immunity be lifted? By whom?	Yes, with the consent of the Chamber.	Yes, with the consent of the Chamber.
Procedure for lifting immunity	- The proposal to lift immunity is made by the private individual who considers he has been harmed by the Member concerned within Parliament.	- The proposal to lift immunity is made by the Public Prosecutor to the Chief Public Prosecutor who transmits it to the Ministry of Justice, which then transmits it to the Chamber. - The Committee on the Rules of Procedure examines the request. - The decision is taken by simple majority of members of the Chamber.
Conditions attached to lifting immunity	The Constitution contains no special requirements regarding the nature of statements. In practice, authorization is never given.	The Constitution contains no special requirements as to the gravity of the crime committed (traffic offences), but immunity is always lifted in the case of criminal proceedings.
Possibility of appeal	No.	No.

Categories of parliamentary immunity	Finland	
	Non-liability	Inviolability
Legal basis	Parliament Act, 1928, section 13 (integral part of the Constitution).	Parliament Act, 1928, section 14 (integral part of the Constitution).
Scope of immunity	Immunity with respect to any prosecution or deprivation of liberty, relating to freedom of speech in Parliament and activities, behaviour and votes cast in Parliament.	Extra-parliamentary immunity, - with respect to detention, imprisonment or prohibition to travel, - but not against any court order, - or if apprehended in <i>flagrante delicto</i> for an offence punishable by a sentence of six months' imprisonment.
Acts covered by immunity	Activities, opinions expressed, behaviour and votes cast in Parliament.	Acts which can lead to arrest, detention and prohibition to travel, - unless he was apprehended when committing a crime which carries a sentence of six months' imprisonment.
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	-	Duration of the Parliament, in practice for the period between elections.
Can immunity be lifted? By whom?	Yes, with Parliament's consent.	Yes, with Parliament's consent.
Procedure for lifting immunity	- The proposal to lift immunity may be made by the competent individual, ie the police officer, the Prosecutor or the private complainant. - The decision to lift immunity is taken by a majority of 5/6 of votes cast.	- The proposal to lift immunity may be made by the competent individual, ie the police officer, the Prosecutor or the private complainant. - The decision to lift immunity is taken by a simple majority of Parliament.
Conditions attached to lifting immunity	No special conditions.	No special conditions, except that the request must concern a specific offence and specific proceedings.
Possibility of appeal	-	-

Categories of parliamentary immunity	France	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 26, para. 1); 29 July 19881 law on freedom of the press (Art. 41), amended by order 58-1100, of 17 November 1958: "speeches made within the National Assembly or the Senate, and reports or any other documents printed by order of one of these two assemblies, shall not give rise to any action".	Constitution (Art. 26, paras. 2, 3, 4); Rules of Procedure of the National Assembly (Art. 80); General Directive of the Bureau of the National Assembly; Senate Rules of Procedure.
Scope of immunity	<p>Absolute prohibition on "prosecution, investigation, arrest, detention, judging" in the carrying out of his parliamentary duties, in civil and criminal matters, subject to disciplinary measures by the Speakers of the Chambers (call to order, censure, temporary exclusion).</p> <p>Parliamentary immunity is a matter of public policy and cannot be waived; acts accomplished in breach of this are null and void.</p>	<p>Inviolability provides relative protection in criminal or minor matters,</p> <ul style="list-style-type: none"> - with respect to proceedings (except preliminary investigation, searches, summons to appear as a witness, acts prior to prosecution) and arrest (remand in custody, police custody), - except if caught in <i>flagrante delicto</i>, when it is for the courts to determine whether or not this was the case. <p>Therefore civil actions and penalties relating to taxation are excluded.</p> <p>Parliamentary immunity is a matter of public policy and cannot be waived; acts accomplished in breach of this are null and void.</p>
Acts covered by immunity	<p>Opinions expressed and votes cast (speeches, initiatives, reports, written and oral questions, acts performed on parliamentary missions), as part of his parliamentary duties, even where they constitute an offence or cause harm.</p> <p>Remarks made during a broadcast or in a report assigned by the government,</p>	<p>Acts liable to prosecution or arrest except:</p> <ul style="list-style-type: none"> - minor offences, - penalties relating to taxation and civil matters, - acts committed in <i>flagrante delicto</i>.

	for example, are excluded.	
Persons covered	Deputies of the National Assembly and Senators.	Deputies of the National Assembly and Senators.
Duration of immunity	Permanent and perpetual.	Duration of mandate, except for prosecutions instituted before the beginning of the mandate; Between sessions, only arrest is prohibited, unless authorised by the Bureau of the Chamber, Such authorization is not necessary: - in the case of <i>flagrante delicto</i> ; - where arrest is the result of investigations authorised during a session; - where arrest is the result of final sentencing to a custodial sentence.
Can immunity be lifted? By whom?	No.	Yes, with the consent of the Chamber, or the Bureau of the Chamber for arrest between sessions.
Procedure for lifting immunity	-	- The question of immunity, which is a matter of public policy, must be raised by the judge of his own motion, or by the member himself or any party. The Minister of Justice transmits it to the Bureau of the Assembly. - The request is examined by a special committee of thirty members, formed for the purpose. - The Chamber discussed the committee's conclusions in open session, and then votes publicly.
Conditions attached to lifting immunity	-	The Chamber has power of discretionary assessment. In principle, it examines, not the facts, but whether the request is "serious, fair and sincere".
Possibility of appeal	-	The Chamber can, <u>if it considers that the <i>flagrante delicto</i> exception has been used unreasonably</u> , request suspension of proceedings against, or detention of, one of its members until the end of his mandate.

Categories of parliamentary immunity	Georgia	
	Non-liability	Inviolability
Legal basis	Constitution; Law on the statute of Deputies; Criminal law; Rules of procedure of the Parliament.	Constitution; Law on the statute of Deputies; Criminal law; Rules of procedure of the Parliament.
Scope of immunity	Immunity with respect to any prosecution or deprivation of liberty, relating to freedom of speech and thought in the performance of the parliamentary duties.	Extra-parliamentary immunity, - with respect to detention, imprisonment or personal search, search of the property, home or office, without the prior consent of the Chamber to lift immunity, - except in the case where the deputy is apprehended in <i>flagrante delicto</i> .
Acts covered by immunity	Opinions and ideas expressed, behaviour and votes cast.	Acts which can lead to arrest, detention, - unless the deputy is apprehended when committing a crime.
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	For the duration of the mandate.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	Yes, with Parliament's consent.
Procedure for lifting immunity	-	The decision to lift immunity is taken by the Parliament.
Conditions attached to lifting immunity	-	Parliament immunity will be lifted in the following cases: a) recognition of the validity of charges by a court conviction; b) inability to work as recognised by a court; bankruptcy or death; c) having a profession or carrying out activities incompatible with the status of deputy; d) loss of Georgian citizenship; e) non-participation in the Parliament' work for a period of four months without any valid reason.

Possibility of appeal	-	-
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Categories of parliamentary immunity	Germany	
	Non-liability	Inviolability
Legal basis	Basic Law (Art. 46); Rules of Procedure of the Bundestag (Art. 107 and Annex 6).	Basic Law (Art. 46); Rules of Procedure of the Bundestag (Art. 107 and Annex 6).
Scope of immunity	Indemnity properly so called protecting the Member from State-imposed sanctions (criminal and disciplinary measures, measures concerned with civil rights and actions in civil law) when carrying out his parliamentary duties.	Immunity in the strict sense, - from any limitation of individual freedom, arrest, criminal and disciplinary prosecution, in principle including inquire, investigatory proceedings and civil imprisonment, - unless he is arrested in <i>flagrante delicto</i> or the following day. Civil actions, actions for breach of contract and preparatory acts for civil imprisonment are excluded.
Acts covered by immunity	Statements made and votes cast in the Bundestag and its committees. Remarks made outside, written remarks other than those printed by the Bundestag, and defamatory remarks are excluded. Influencing a member and "buying and selling" votes at an election or a parliamentary vote are also offences. By a preliminary decision, the Electoral Committee on Immunities and the Rules of Procedure may approve prosecution for "unconstitutional defamation" or "contempt of the Bundestag".	Inviolability extends to all the acts for which the law provides a sentence, except: - acts punishable under contract law, - those committed in <i>flagrante delicto</i> . At the beginning of each legislative session, the Bundestag passes a resolution containing general approval of criminal investigations, excluding insults of a political nature. But criminal proceedings then require the Bundestag's consent for a single prosecution and a specific offence.
Persons covered	Members of the Bundestag (not the Bundesrat).	Members of the Bundestag (not the Bundesrat).
Duration of immunity	Perpetual.	For the duration of the mandate, starting from acceptance of the election.

<p>Can immunity be lifted? By whom?</p>	<p>Yes, with the approval of the Bundestag, even for instituting investigatory proceedings; or by preliminary decision of the Electoral Committee in the case of "unconstitutional defamation" or "contempt of the Bundestag".</p>	<p>Yes, with the consent of the Bundestag (general at the beginning of the session and particular for criminal proceedings). The Speaker of the Bundestag must be notified in advance of the beginning of investigatory proceedings, as must the member if this will not impede the process of ascertaining the facts.</p>
<p>Procedure for lifting immunity</p>	<p>- In the case of "unconstitutional defamation" or "contempt of the Bundestag", the Public Prosecutor submits his request, in accordance with directives on criminal procedure and administrative fines, to the Federal Minister of Justice who submits them to the Bundestag which then makes its decision as to whether to allow prosecution. - By preliminary decision, the Electoral Committee on Immunities and Rules of Procedure can all prosecution for "unconstitutional defamation" or "contempt of the Bundestag".</p>	<p>The request to lift immunity is made: a) by the Public Prosecutor, the courts, civil rights and professional courts under public law and trade and professional associations exercising supervision by virtue of the law, b) by the court before the opening of the main proceedings in the case of criminal proceedings brought by the victim without the help of the prosecuting authorities, c) the creditor in executory proceedings, d) the Committee on Electoral Scrutiny, Immunities and Rules of Procedure. The Ministry of Justice transmits it to the Speaker of the Bundestag who announces it in a plenary session and immediately refers it to the Electoral Committee on Immunities and Rules of Procedure. - It is examined by the Committee which lays down principles for examining requests and uses them to formulate recommendations to the Bundestag on each individual case. - The decision is taken by the Bundestag; for simplified proceedings and matters of lesser importance, by the Committee, unless the Bundestag opposes its preliminary decision within 7 days.</p>
<p>Conditions attached to lifting immunity</p>	<p>In the case of influence, it is difficult to distinguish between politically lawful and immoral influence.</p>	<p>The Bundestag does not assess the evidence. The purpose of immunity is to ensure the smooth running and reputation of the Bundestag as a whole. The decision to lift immunity is a political decision and must not amount to interference in proceedings in progress where it is a matter of establishing a right or a tort, guilt or innocence. The political</p>

		decision is essentially based on comparing the interests of Parliament and those of the other authorities.
Possibility of appeal	-	Suspension of detention or any deprivation of liberty at the Bundestag's request.

Categories of parliamentary immunity	Greece	
	Non-liability and special jurisdiction of the Court of Appeal	Inviolability
Legal basis	Constitution (Art. 22); Rules of Procedure of the Chamber of Deputies (Art. 83).	Constitution (Art. 22); Rules of Procedure of the Chamber of Deputies (Art. 83).
Scope of immunity	Immunity "in the carrying out of parliamentary duties", with respect to legal proceedings and examination of any kind. Special jurisdiction of the Greek Court of Appeal for crimes of defamation committed by deputies.	- The deputy cannot be arrested, detained, prosecuted or otherwise deprived of his personal freedom without the prior consent of the Chamber to lift immunity, but this protection does not exclude conducting an investigation or opening an inquiry (so long as it does not affect the deputy's person), or searching his Home (<i>intuitu personae</i> immunity), - Except in the case of <i>flagrante delicto</i> . However, he may be brought before the civil courts and detained for the recovery of debts.
Acts covered by immunity	A deputy cannot be subjected to legal proceedings by any judicial or other body or be subject to any inspection by private persons for the opinions he expresses or the votes he casts (strictly defined). Proceedings may, however, be brought for slanderous defamation committed within the framework of an opinion expressed or a vote case where they are "unrelated to the performance of his parliamentary duties".	This protection also covers crimes and offences and infringements. If he wishes, the deputy may testify before the courts.
Persons covered	Members of the Chamber of Deputies. A person who is both a Minister and a deputy is covered only for opinions expressed in his role as a	Members of the Chamber of Deputies.

	deputy, not as a Minister.	
Duration of immunity	<p>After taking the oath, then with no time-limit; this also applies to the right to refuse to testify.</p> <p>No Member of the dissolved Chamber may be prosecuted for a political offence before the election of the new Chamber.</p>	<p>From the day of investiture and throughout the life of the Parliament, even for crimes committed before the beginning of the mandate.</p> <p>Inviolability is suspended when the Chamber is dissolved for any reason whatsoever, unless the deputy stands for election to the new Chamber. A deputy who has committed a "political offence" is covered.</p> <p>In the event of a state of emergency being declared, the deputy is covered throughout the application of the decree, even if the Chamber is dissolved or after the expiry of the legislature.</p>
Can immunity be lifted? By whom?	Yes, with the consent of the Chamber, which must make a decision within 45 days.	Yes, with the consent of the Chamber which must make a decision within three months from the transmission of the request by the Prosecutor to the Speaker.
Procedure for lifting immunity	Idem.	<ul style="list-style-type: none"> - The proposal to lift immunity comes from the Prosecutor who raises the question of his own motion, or on the request of the injured party; it is then submitted to the Speaker. - It is examined by the Parliamentary Committee on Public Administration, Law and Order and Justice. - The Chamber decides in plenary session, after a debate, followed by a secret vote, whether to allow immunity to be lifted.
Conditions attached to lifting immunity	An opinion or vote cast which are "unrelated to the performance of parliamentary duties".	<p>Many requests are not examined because the time-limit has run out, the request is inadmissible, the Chamber is not competent in the matter, or because the process has not been completed.</p> <p>The Committee gives an opinion as to whether or not the request should be granted.</p> <p>The Chamber does not consider whether the charge is justified. Its principal objective is to protect the functioning of Parliament and therefore it examines the case only if the future proceedings have</p>

		political ends.
Possibility of appeal	-	-

Categories of parliamentary immunity	Hungary	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 20); Law on the legal statute of deputies of the National Assembly.	Constitution (Art. 20); Law on the legal statute of deputies of the National Assembly.
Scope of immunity	Immunity in the performance of his duties, with respect to any liability before the courts or other authorities. This does not extend to civil liability.	Extra-parliamentary liability; - with respect to any "arrest", "criminal proceedings or contraventions" and coercive measures, - Without the Assembly's consent to lift immunity. - In case of <i>flagrante delicto</i> , the deputy may be arrested but application for his immunity to be lifted must be made as soon as possible.
Acts covered by immunity	Members of Parliament cannot be held liable for their votes or statements concerning facts or opinions expressed "in the performance of their duties". This does not extend to defamation or slander.	Acts which may lead to criminal proceedings of coercive measures. - including minor offences, - but not in case of <i>flagrante delicto</i> .
Persons covered	Deputies of the National Assembly.	Deputies of the National Assembly.
Duration of immunity	-	-
Can immunity be lifted? By whom?	Yes, with the consent of the National Assembly.	Yes, with the consent of the National Assembly.
Procedure for lifting immunity	- The proposal to lift immunity is submitted to the Speaker of the Assembly by the Chief Prosecutor, but after the deposition or the formal request or the presentation of the private accusation, it is the court that is competent to propose lifting immunity. - The request is examined by the Parliamentary Committee	- The proposal to lift immunity is submitted to the Speaker of the Assembly by the Chief Prosecutor, but after the deposition or the formal request or the presentation of the private accusation, it is the court that is competent to propose lifting immunity. In the case of <i>flagrante delicto</i> , the proposal must be submitted without delay. - The request is examined by the

	on Immunities within thirty days. - The decision is taken by the Assembly, without debate, and requires a two-thirds majority of deputies present.	Parliamentary Committee on Immunities and Incompatibilities within thirty days. - The decision is taken by the Assembly, without debate, and requires a two-thirds majority of deputies present.
Conditions attached to lifting immunity	-	Cases of <i>flagrante delicto</i> .
Possibility of appeal	-	-

Categories of parliamentary immunity	Ireland	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 15); the Committees of Houses of the Oireachtas (Privilege and Procedure) Act 1976 (Art. 2).	Constitution (Art. 15); the Committees of Houses of the Oireachtas (Privilege and Procedure) Act 1976 (Art. 2).
Scope of immunity	Freedom of speech and activity in the performance of the mandate.	Immunity within the framework of the mandate.
Acts covered by immunity	Immunity covers Acts of Parliament ("Oireachtas"), its official documents and Members' private documents. It also protects Members of both Houses from any legal action that might limit their freedom of speech and activities carried out in performance of their duties and from any person attempting to corrupt them. Certain offences, such as treason, serious crimes and public order offences, are excluded from this.	Prohibition on applying to Members measures restricting their personal freedom when they go to Parliament, are sitting, or returning from there.
Persons covered	Members of Parliament, parliamentary committees and officials and experts taking part in their work.	Members of Parliament.
Duration of immunity	Unlimited.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	No.
Procedure for lifting immunity	No such procedure is provided for. A Member may submit voluntarily to judicial proceedings for defamation by repeating remarks outside the House or the committee room.	No such procedure is provided for. A Member may submit voluntarily to judicial proceedings for defamation by repeating remarks outside the House or the committee room.

Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Italy	
	Non-liability (Insidiabilità)	Inviolability
Legal basis	Constitution (Art. 68); Rules of Procedure of the Chamber of Deputies (Art. 18); Rules of Procedure of the Senate (Art. 135).	Constitution (Art. 68); Rules of Procedure of the Chamber of Deputies (Art. 18); Rules of Procedure of the Senate (Art. 135).
Scope of immunity	(Absolute) immunity protects the deputy from any civil, administrative or criminal proceedings arising from the opinions he expresses and the votes he casts in the course of his duties.	(Relative) extra-parliamentary immunity, - with respect to any search of the person or premises, measures to preserve evidence, surveillance, investigation, identification, confrontation, interception of conversations and mail, arrest, detention, - except in the case of <i>flagrante delicto</i> for which an arrest warrant is compulsory, and executing final judgment.
Acts covered by immunity	Opinions expressed and votes cast in connection with their duties, excluding acts, political or not, which are not directly connected with parliamentary work in the strict sense of the term. In accordance with established practice, consent is not generally given for immunity to be lifted for offences such as insult or defamation.	Acts which may lead to the proceedings or actions mentioned, - unless committed in <i>flagrante delicto</i> .
Persons covered	Members of the Chamber of Deputies and the Senate.	Members of the Chamber of Deputies and the Senate.
Duration of immunity	Unlimited.	For the life of the Parliament, from the proclamation of results.
Can immunity be lifted? By whom?	No, where it is obvious that criminal proceedings have been instituted because of opinions expressed or votes cast by a member, the judge	Yes, with the consent of the Chamber to which he belongs.

	has a duty to end them.	
Procedure for lifting immunity	-	<ul style="list-style-type: none"> - The Public Prosecutor (or the competent judicial body) submits a "request for authorization to take action" to the Minister of Justice who transmits it to the Speaker of the Assembly. - In criminal proceedings the judge informs the Chamber of his decision to proceed, which suspends proceedings for 90 days, and invites the Chamber to decide whether or not to suspend proceedings until the end of the mandate. - Requests are examined by the "committee for authorizations to take action" in the Chamber (21 deputies) and the Committee on Electoral Matters and Parliamentary Immunities in the Senate (23 senators), within 30 days, after which time the request is automatically entered on the Assembly's agenda. - The Chamber takes a majority decision by secret ballot and gives the grounds for its decision.
Conditions attached to lifting immunity	In accordance with established practice, consent is generally not given for offences such as insult or defamation.	<p>To refuse or allow immunity to be lifted, both Chambers formerly used the following criteria:</p> <ul style="list-style-type: none"> - Whether or not there was a <i>fumus persecutionis</i> on the part of the judge in charge of the Member's case (tortious intent, negligence, etc.). - Manifestly unjustified charge. - The intrinsic nature of the offence and the political nature of the opinion or facts at issue. <p>These conditions are no longer cumulative in all cases, the first criteria being sufficient. The criteria are flexibly assessed on a case-by-case basis, the decision to lift immunity being political rather than legal.</p>
Possibility of appeal	-	-

Categories of parliamentary immunity	Japan	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 51).	Constitution (Art. 50). Diet law (Arts; 33, 34, 34-II, 34 III).
Scope of immunity	Legal non-liability.	Prohibition of arrest and detention only. Other investigative measures, such as search or seizure, are not covered. Prosecution is not covered.
Acts covered by immunity	Statements, debates and votes in Parliament.	Acts liable to arrest except those committed in <u>flagrante delicto</u> outside the Chamber.
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Unlimited.	For the duration of sessions.
Can immunity be lifted? By whom?	No.	Yes, by the Chamber of which he is a member.
Procedure for lifting immunity	-	The competent court or judge sends the Cabinet a written request to seek for the consent of a Chamber to arrest one of its members after examining the request made by the public prosecutor or the police. The Cabinet asks for the consent of the Chamber producing a copy of the request made by the Court. The Chamber discusses and takes a vote.
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Kyrgyzstan	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 56); Law on "the status of deputies of the Republic of Kyrgyzstan" (Arts. 11, 33, 34, 35).	Constitution (Art. 56); Law on "the status of deputies of the Republic of Kyrgyzstan" (Arts. 11, 33, 34, 35).
Scope of immunity	A deputy cannot be prosecuted for the opinions he expresses or the votes he casts in the course of his parliamentary duties.	Extra-parliamentary immunity, - against personal search, search of his property, home or office, arrest, detention, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Statements, debates and votes in Parliament. Protection of the deputy's personal dignity. Public insults, affronts and slander of a deputy and pressure of any kind on him or his family to prevent him carrying out his duties are illegal.	Acts which may lead to arrest, detention, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Persons covered	Members of Parliament (Gogorku Kenesh).	Members of Parliament.
Duration of immunity	Unlimited.	For the duration of his mandate.
Can immunity be lifted? By whom?	No.	Yes, by Parliament.
Procedure for lifting immunity	-	- The proposal is submitted to the Chamber by the Public Prosecutor of the Republic of Kyrgyzstan. - The question is examined and debated by Parliament within a month.
Conditions attached to lifting immunity	-	Commission of a crime.
Possibility of	-	-

appeal		
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Categories of parliamentary immunity	Latvia	
	Non-liability	Inviolability
Legal basis	Constitution (Arts. 28 & 34); Law on the Rules of Procedure of the Saeima (Parliaments) (Arts. 17, 18, 19).	Constitution (Arts. 28 & 34); Law on the Rules of Procedure of the Saeima (Parliaments) (Arts. 17, 18, 19).
Scope of immunity	Immunity from any judicial, administrative or disciplinary proceedings for opinions expressed and votes cast in the performance of his duties.	Extra-parliamentary immunity, - from any arrest, investigation, limitation of personal freedom, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Opinions expressed and votes cast in the course of his duties, except in the case of: - intentional dissemination of defamatory information; - defamation regarding private and family life.	Acts which may lead to arrest, detention, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Unlimited.	For the duration of sessions.
Can immunity be lifted? By whom?	No.	Yes, by Parliament.
Procedure for lifting immunity	-	- In the case of <i>flagrante delicto</i> , the Bureau of Parliament must be informed of the deputy's arrest within 24 hours. At the next session Parliament decides whether to keep the deputy under arrest or release him. Between sessions the decision is taken by the Bureau of Parliament.
Conditions attached to lifting immunity	-	-
Possibility of	-	In the case of a crime committed in

appeal		<i>flagrante delicto</i> , Parliament can request the suspension of proceedings or the deputy's arrest.
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Categories of parliamentary immunity	Liechtenstein	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 57); Rules of Procedure of the Diet (Parliament).	Constitution (Art. 57); Rules of Procedure of the Diet (Parliament).
Scope of immunity	Absolute non-liability for votes cast. Members are responsible only to the Diet for what they say during sessions of the Diet and its committees, in accordance with the Rules of Procedure. They can never be brought before the courts for this, however.	Immunity from any kind of arrest, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Votes cast and opinions expressed in the Diet and its committees.	Acts which can lead to arrest, detention, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Persons covered	Members of the Diet.	Members of the Diet.
Duration of immunity	Unlimited.	For the duration of sessions.
Can immunity be lifted? By whom?	No.	Yes, by the Diet.
Procedure for lifting immunity	-	- In the case of <i>flagrante delicto</i> , the Diet must be informed of the Member's arrest as soon as possible. It then decides whether to uphold the arrest or release him. Between sessions, the National Committee is informed. - The proposal is submitted to the Diet by the Government, a parliamentary committee or a deputy.
Conditions attached to lifting immunity	-	-

Possibility of appeal	-	If the Member is apprehended in <i>flagrante delicto</i> , the Chamber can request suspension of proceedings or of his arrest.
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Categories of parliamentary immunity	Lithuania	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 62); law on the Status of the Seimas (Parliament) (Arts. 23 & 24).	Constitution (Art. 62); law on the Status of the Seimas (Parliament) (Arts. 23 & 24).
Scope of immunity	Members of Parliament may not be prosecuted for speeches or votes cast in Parliament.	Extra-parliamentary immunity, - from any criminal liability, arrest or any other restriction of personal freedom, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Speeches and votes cast in Parliament, - except in the case of personal insult or slander.	Acts which can lead to arrest, detention, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Unlimited.	For the length of sessions.
Can immunity be lifted? By whom?	No.	Yes, by Parliament.
Procedure for lifting immunity	-	- In the case of <i>flagrante delicto</i> , the Public Prosecutor must notify Parliament of the Member's arrest as soon as possible. Parliament decides whether to uphold the arrest or release the Member. Between sessions, the National Committee is notified. - The proposal is submitted to Parliament by the Public Prosecutor. - A committee of investigation is set up to examine the request for lifting of immunity and to hear the person concerned. - The decision is taken at the next session of Parliament, after the committee has submitted its conclusions and draft resolution, by a majority of Members.
Conditions attached to lifting immunity	-	-

Possibility of appeal	-	-
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Categories of parliamentary immunity	Luxembourg	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 68); Rules of Procedure of the Chamber of Deputies (Arts. 159-166).	Constitution (Art. 68); Rules of Procedure of the Chamber of Deputies (Arts. 159-166).
Scope of immunity	Immunity from prosecution and investigation.	Extra-parliamentary immunity, - from all acts liable to prosecution under criminal law, any form of restriction of personal freedom, judicial proceedings and civil imprisonment, - except in the case of <i>flagrante delicto</i> . - Inviolability does not prevent action being taken against a deputy in civil law.
Acts covered by immunity	Speeches and votes cast in the course of his duties, but not political and party activities. Personal statements made outside the Chamber at public meetings or in the press are not covered, even where they reflect those expressed in the Chamber.	Acts liable to arrest, detention, criminal or administrative proceedings, except: - minor offences for which the law does not provide remand in custody and which are not defamatory. - in cases of <i>flagrante delicto</i> .
Persons covered	Members of the Chamber of Deputies.	Members of the Chamber of Deputies.
Duration of immunity	Unlimited.	For the duration of sessions.
Can immunity be lifted? By whom?	No.	Yes, by the Chamber of Deputies.
Procedure for lifting immunity	-	- The proposal is submitted to the Chamber by the Minister of Justice or the prosecuting authorities through the Prime Minister, the injured party or the deputy himself. - A special committee is formed to examine each request, and hears the deputy, even if he is in custody. - The Chamber votes by secret ballot in closed session.
Conditions attached to lifting	-	If a request to prosecute or detain is rejected, a further request for immunity to be lifted with regard to the same facts

immunity		may not be submitted during the same session. - A number of criteria have been laid down for assessing the question of lifting immunity: - if the offences constitute a threat to public order or the public interest (private interests can be protected under civil law); - if the facts, once established, can be regarded as constituting an offence; - if the deputy concerned is really the author of the offence; - whether or not the prosecution is malicious or motivated by a desire to harass a political opponent; - whether the request is based only on the desire to prevent a deputy performing his duties normally or the desire to damage him in the eyes of public opinion; - if the offences, once established, are sufficiently serious to justify the lifting.
Possibility of appeal	-	-

Categories of parliamentary immunity	Malta	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 65, 3); House of Representatives (Privileges and Powers) Ordinance (Chapter 113 of the Laws of Malta); Act No. XI of 1995 introducing a Code of Ethics for Members of the House of Representatives.	Constitution (Art. 65, 3); House of Representatives (Privileges and Powers) Ordinance (Chapter 113 of the Laws of Malta).
Scope of immunity	Immunity from all civil and criminal proceedings.	Immunity from arrest for a civil debt, provided it is not fraudulent or otherwise in contravention of the Criminal Code. Imprisonment for debt is no longer in force. Except in this case, there is no inviolability.
Acts covered by immunity	Words spoken before the House or written in a report to the House or one of its committees.	When a Member of Parliament commits a crime, he is arrested like any other citizen.
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Unlimited.	Duration of sessions.
Can immunity be lifted? By whom?	Yes, Members are subject to the House's internal rules of conduct if they breach them or vexatiously interrupt the conduct of the business of the House.	No.
Procedure for lifting immunity	- The Speaker of the House refers breaches of privilege or <i>prima facie</i> contempt to the Committee of Privileges. - The Committee of Privileges was set up to investigate whether a Member has committed any breach of privilege or contempt. It refers the matter to the House, recommending that the person	-

	<p>concerned be brought before the Court of Magistrates (Malta), or that the House punish him itself.</p> <p>- The House authorises the Speaker to order the police to bring him before the Court of Magistrates or resolves that he would be adequately punished by an admonition by the Speaker.</p>	
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Moldova	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 71); Status Law (Art. 9).	Constitution (Art. 70); Status Law (Art. 10).
Scope of immunity	Members of Parliament cannot be subject to any criminal or civil action or be brought before the courts. Absolute immunity.	Extra-parliamentary immunity, - from any prosecution, search or arrest, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Votes cast and opinions expressed in the exercise of their mandate. Such immunity concerns acts which only a Member of Parliament can accomplish in Parliament. However, it also covers the political opinions he expresses outside Parliament.	Acts liable to search, arrest, detention, criminal proceedings, except: - cases of <i>flagrante delicto</i> .
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Permanent.	For the duration of sessions.
Can immunity be lifted? By whom?	No.	Yes, by the Chamber to which he belongs.
Procedure for lifting immunity	-	In the case of <i>flagrante delicto</i> , a member may be detained in his home for 24 hours on the authority of the Public Prosecutor. The Speaker must be informed immediately; he informs Parliament which may then suspend detention. As a general rule, the procedure for obtaining lifting of immunity is as follows: - The proposal is made by the Public Prosecutor. - It is examined by the Permanent Committee on Legal Affairs, Appointments and Immunities which submits a report. - Parliament votes by secret ballot on the Committee's report.

		- The Public Prosecutor, and he alone, may prosecute a Member of Parliament.
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Netherlands	
	Non-liability and special jurisdiction before the Supreme Court	Inviolability
Legal basis	Constitution (Grondwet) (Art. 71).	-
Scope of immunity	The people concerned are protected from legal proceedings, both civil and criminal, and cannot otherwise be held liable for their freedom of speech while carrying out their mandate. Offences committed by Members of Parliament in the exercise of their mandate are adjudicated by the Supreme Court (Hoge Raad).	Since 1884 Members of Parliament have had the same status as ordinary citizens as regards proceedings and enforcement of a sentence for offences under ordinary law.
Acts covered by immunity	Any opinion stated during meetings of the States General or of its committees or any opinion submitted to them in writing, even where they concern facts not directly connected with the subjects under discussion. Thus all acts accomplished while carrying out the mandate within or outside Parliament are covered. Insults uttered by members are excluded.	-
Persons covered	Members of the States General, Ministers, Secretaries of State and other people who take part in debates.	-
Duration of immunity	Unlimited.	-
Can immunity be lifted? By whom?	Yes (without Parliament's consent since 1848).	-
Procedure for lifting	-	-

immunity		
Conditions attached to lifting immunity	Abuse of immunity, such as uttering insults when speaking in Parliament.	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Norway	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 66).	Constitution (Art. 66).
Scope of immunity	Members of Parliament (Storting) cannot be held liable for their freedom of speech.	- Members of Parliament are protected from arrest by the police during Parliamentary sessions and on their way to and from home, - except where they are apprehended committing a serious crime. They are not protected from indictment or being sentenced to imprisonment.
Acts covered by immunity	Immunity covers both expressions uttered during debates and written in documents in and outside Parliament. Insults are covered, if they are connected with the subject of the debate.	Acts that can lead to the measures mentioned under "scope of immunity"; - except where the Member is caught in the act of committing a serious crime.
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	-	During sessions.
Can immunity be lifted? By whom?	No.	No.
Procedure for lifting immunity	-	-
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Portugal	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 160); Rules for Deputies (Rule 10); Rules of Procedure of the Assembly of the Republic (Rule 38).	Constitution (Art. 160); Rules for Deputies (Rule 10); Rules of Procedure of the Assembly of the Republic (Rule 38).
Scope of immunity	Immunity from civil, criminal and disciplinary proceedings for opinions expressed and votes cast in the exercise of their duties.	Extra-parliamentary immunity - from detention and arrest; this does not extend to initiation of criminal proceedings or the procedural acts of the investigation stage. Once the deputy has been formally charged with an offence punishable by less than three years' imprisonment, immunity must be lifted for the proceedings to continue. - except in the case of <i>flagrante delicto</i> and if the alleged offences are punishable by more than three years' imprisonment.
Acts covered by immunity	Immunity, even for "offences of defamation", for "declarations, statements, opinions, requests, judgments and, in general, spoken or written manifestations of thought produced in the exercise of parliamentary duties".	All acts that may lead to proceedings, except: - contraventions, although they are not part of criminal procedure, - in the case of <i>flagrante delicto</i> , offences punishable by more than three years' imprisonment.
Persons covered	Members of the Assembly of the Republic.	Members of the Assembly of the Republic.
Duration of immunity	Unlimited.	For the duration of the legislature, from the first meeting of the Assembly and during the period it is dissolved.
Can immunity be lifted? By whom?	No.	Yes, by the Assembly of the Republic.
Procedure for lifting immunity	-	- The competent authorities submit the proposal to the Speaker of the Assembly. The judge then requests the suspension of the deputy's mandate. - The request is examined by the Committee on the Rules of Procedure and

		<p>Parliamentary Mandates which hears the deputy and then gives an opinion.</p> <ul style="list-style-type: none">- The decision to consent to the imprisonment of a deputy or to suspend proceedings is taken by secret ballot. An absolute majority of deputies present is required.
Conditions attached to lifting immunity	-	<p>According to legal opinion and well-established parliamentary practice, the Assembly's decision must not be based on any opinion (or debate) on the merits of the case, which falls within the competence of the courts, but should be limited to the assessment of the "public, political and moral suitability of the proceedings". The decision of the Assembly on the deputy's suspension does not imply recognition of the deputy's guilt or innocence.</p> <p>According to these criteria, immunity must be lifted:</p> <ul style="list-style-type: none">- "in serious cases, by which shall be understood those involving an element of ostensible public scandal, which affects the Assembly (calling its reputation into question) rather than the deputy himself";- "in cases which, owing to their nature and circumstances, require urgent evaluation in court". <p>A criterion based solely on the verification of the existence of "<i>fumus persecutionis</i>" is considered insufficient and dangerous".</p>
Possibility of appeal	-	-

Categories of parliamentary immunity	Romania	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 69, 70); Rules of Procedure of the Chamber of Deputies (art. 168-172); Rules of procedure of the Senate (art. 149-152).	Constitution (Art. 69, 70); Rules of Procedure of the Chamber of Deputies (art. 168-172); Rules of procedure of the Senate (art. 149-152).
Scope of immunity	A deputy cannot be prosecuted for the political opinions he expresses or the votes he casts in the course of his parliamentary duties.	Extra-parliamentary immunity, - against personal search, search of his property, arrest, detention, criminal or administrative proceedings, - except in the case of <i>flagrante delicto</i> .
Acts covered by immunity	Opinions expressed and votes casted in the course of parliamentary duties.	Acts which may lead to arrest, detention, criminal or administrative proceedings. - except in the case of <i>flagrante delicto</i> .
Persons covered	Deputies and Senators.	Deputies and Senators.
Duration of immunity	-	-
Can immunity be lifted? By whom?	Yes, by the Chamber to which the parliamentarian belongs.	Yes, by the Chamber to which the parliamentarian belongs.
Procedure for lifting immunity	-	- The proposal to lift immunity is submitted to the Chamber to which the parliamentarian belongs by the Minister of Justice. The President of the Chamber informs the deputies and the senators. The proposal is transmitted then to the Legal Committee on the Immunities which gives an opinion by majority. This advice is transmitted to the Chamber to which the parliamentarian belongs which decides (by a two-thirds majority of the Senators presents ; and by a two-thirds majority of the total number of Deputies) whether it should grant or refuse leave.
Conditions attached to lifting immunity		Case of <i>flagrante delicto</i> ; preliminary consent of the Chamber to which the parliamentarian belongs; the parliamentarian must be heard.

Possibility of appeal	-	-
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Categories of parliamentary immunity	Russia	
	Non-liability	Inviolability
Legal basis	Law on the Status of Deputies to the Council of the Federation and the State Duma (Arts. 18, 19 & 20); Rules of Procedure of the State Duma and Rules of Procedure of the Council of the Federation.	Law on the Status of Deputies to the Council of the Federation and the State Duma (Arts. 18, 19 & 20); Rules of Procedure of the State Duma and Rules of Procedure of the Council of the Federation.
Scope of immunity	Members are not liable to criminal or administrative proceedings except in cases provided for by law. (Provisions with legislative force).	- Prohibition of criminal or administrative proceedings by the courts, personal and other searches, detention and arrest; interrogation and personal visits (except in cases provided for by law to ensure the safety of third parties) without the consent of the Chamber concerned, - except in cases of <i>flagrante delicto</i> . The deputy's inviolability extends to his home, office, luggage, means of transport and communication, and documents.
Acts covered by immunity	Opinions expressed and votes cast in Parliament in the exercise of their duties, except insults and slander and cases provided for by law.	All acts which may lead to the above-mentioned measures except, - offences committed in <i>flagrante delicto</i> .
Persons covered	Members of the Federal Assembly (Council of the Federation and State Duma).	Members of the Federal Assembly (Council of the Federation and State Duma).
Duration of immunity	Unlimited.	For the duration of the mandate.
Can immunity be lifted? By whom?	0	Yes, by the Chamber to which the Member belongs.
Procedure for lifting immunity	-	- The proposal is submitted to the Chamber by the Public Prosecutor of the Russian Federation. - The request is examined by a special committee in each Chamber which produces an opinion, with grounds, within five days. - The decision is taken by the Chamber concerned (a two-thirds majority of

		Members within seven days of the date of the proposal is required for the Council of the Federation; a majority of the total number of deputies is required in the State Duma, within seven days).
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Slovakia	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 78); Law No. 45/1989 on Members of the Slovak National Council (SNC) (Art. 28); Law No. 44/1989 on Rules of Procedure of the SNC (Art. 93).	Constitution (Art. 78); Law No. 45/1989 on Members of the Slovak National Council (SNC) (Art. 28); Law No. 44/1989 on Rules of Procedure of the SNC (Art. 93).
Scope of immunity	Members cannot be held liable for their speeches or the votes they cast in the SNC. They are, however, subject to the disciplinary powers of the SNC for statements conflicting with their position and honour.	Immunity in criminal matters, - from all prosecution, disciplinary measures, pre-trial detention; - in the case of <i>flagrante delicto</i> , the prosecuting authority must inform the SNC of the Member's arrest or detention and obtain its consent.
Acts covered by immunity	Statements made and votes cast in the SNC, except those conflicting with their position and honour.	All acts that may lead to prosecution, disciplinary measures, pre-trial detention, - except where the member is apprehended in <i>flagrante delicto</i> and the SNC gives its consent.
Persons covered	Members of the Slovak National Council.	Members of the Slovak National Council.
Duration of immunity	Unlimited.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	Yes, by the SNC or the Mandate and Immunity Committee.
Procedure for lifting immunity	-	In the case of <i>flagrante delicto</i> , the prosecuting authority immediately informs the Speaker of the SNC of the deputy's arrest or detention and must obtain consent from the Mandate and Immunity Committee. - The proposal is submitted to the Speaker of the SNC by the competent public body. - It is then examined by the Mandate and Immunity Committee. - The decision is taken by the SNC.
Conditions	-	Cases of <i>flagrante delicto</i> .

attached to lifting immunity		
Possibility of appeal	-	Refusal to lift immunity amounts to final prohibition on continuing proceedings, even after the end of the deputy's mandate.

Categories of parliamentary immunity	Slovenia	
	Non-liability	Inviolability
Legal basis	Constitution (Arts. 83 & 100); Deputies Act (Art. 21) Standing Orders of the National Assembly (Arts. 33-42).	Constitution (Arts. 83 & 100); Deputies Act (Art. 21) Standing Orders of the National Assembly (Arts. 33-42).
Scope of immunity	Deputies cannot be held liable under criminal law for any opinion they express or any vote cast in the Assembly, its committees or any other of its organs. He is, however, subject to the disciplinary measures laid down in Standing Orders and is not exempt from civil liability.	Extra-parliamentary immunity - from arrest and detention, and criminal proceedings, - except if . the deputy is apprehended in <i>flagrante delicto</i> for an offence which carries penalty of more than five years; . the member pleads guilty.
Acts covered by immunity	Opinions expressed or votes cast in the Assembly, its committees or any other of its organs. If, however, a deputy, should at a session of the National Assembly commit an act of the nature of criminal offence and not covered by the non-liability - for example bodily injury, damaging of property -, he would be held liable under the criminal law.	All acts that may lead to arrest, detention or criminal proceedings.
Persons covered	Members of the National Assembly and National Council.	Members of the National Assembly and National Council.
Duration of immunity	Unlimited.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	Yes, by the Chamber to which the deputy belongs during sessions, or by the Committee on Mandates and Immunities between sessions, with the subsequent consent of the Assembly in session; immunity is lifted only for the offence mentioned in the request.
Procedure for	-	Where a deputy is apprehended in the act

<p>lifting immunity</p>		<p>of committing an offence punishable by five years' imprisonment, the competent public authority immediately informs the Speaker of the Assembly of the arrest, detention or beginning of criminal proceedings and must obtain the consent of the Committee on Mandates and Immunities.</p> <ul style="list-style-type: none"> - The proposal is submitted to the Speaker of the Assembly by the competent public authority. - The request is examined by the Committee on Mandates and Immunities which gives an opinion with reasons adopted by a majority of Members present. - The decision to authorise or suspend arrest, detention or proceedings is taken by the Assembly within 30 days of receiving the application or notification.
<p>Conditions attached to lifting immunity</p>	<p>-</p>	<p>The National Assembly does not make any decision as to the relevance of evidence or establishment of the alleged crime, but decides only whether or not to grant immunity.</p> <p>According to the criteria adopted, immunity is refused:</p> <ul style="list-style-type: none"> - where the deputy has been arrested or criminal proceedings have been initiated against him prior to the confirmation of his mandate; - where the deputy is apprehended committing a criminal offence for which a penalty of more than five years' imprisonment is prescribed; - where the deputy has not claimed immunity.
<p>Possibility of appeal</p>	<p>-</p>	<p>-</p>

Categories of parliamentary immunity	Spain	
	Non-liability (Inviolabilidad)	Inviolability (Inmunidad) and special jurisdiction
Legal basis	Constitution (Art. 71); Rules of Procedure of the Congress of Deputies (Art. 10); Rules of Procedure of the Senate (Art. 21).	Constitution (Art. 71); Rules of Procedure of the Congress of Deputies (Arts. 11 to 14); Rules of Procedure of the Senate (Art. 22); Code of Criminal Procedure.
Scope of immunity	Non-liability of a Member of Parliament (criminal, civil and disciplinary); freedom of speech and free formulation of the wishes of the legislative body.	Extra-parliamentary immunity, - from detention, charge, bringing of legal proceedings, but not civil proceedings that do not affect the deputy's personal freedom; - except in case of <i>flagrante delicto</i> , the examining magistrate being responsible for determining its existence.
Acts covered by immunity	Opinions expressed and votes cast in Parliament and in order to determine the wishes of Parliament, including minority opinions. Violence to persons or things, even in a meeting, are of course excluded. Remarks made at meetings with the electorate, party and private meetings and journalistic activity are also excluded.	All acts which may lead to arrest, detention or criminal proceedings, - except in case of <i>flagrante delicto</i> , the examining magistrate being responsible for determining its existence.
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Unlimited.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	Yes, by the Chamber to which the Member belongs.
Procedure for lifting immunity	-	- The proposal is submitted to the Speaker of the Chamber by the President of the Supreme Court competent in criminal matters, in the case of proceedings against a deputy or senator. - The request is examined by a special committee in each Chamber which gives

		<p>an opinion, with its reasons, within 30 days of receiving the request, after hearing the member concerned.</p> <ul style="list-style-type: none">- The decision is taken by the Chamber by secret ballot in closed session. If the Chamber fails to make a decision within 60 days, the request is deemed to have been rejected.
Conditions attached to lifting immunity	-	<p>Prior consent of the Chamber is not a judicial, but a political, act. The Chamber assesses the political significance of the deputy's alleged conduct.</p> <p>However, immunity has already been lifted for "serious resistance to the agents of authority, contempt of the government, contempt of the Head of State and illegal detention or crimes of violence". But the decision to lift immunity is not a discretionary power; furthermore, reasons have to be given.</p> <p>Criteria have been laid down to this effect:</p> <ul style="list-style-type: none">- protecting the fundamental rights of third parties,- it is not a personal privilege.
Possibility of appeal	-	-

Categories of parliamentary immunity	Sweden	
	Non-liability	Inviolability
Legal basis	Constitution (Art. 8, chap. 4).	Constitution (Art. 8, chap. 4).
Scope of immunity	Immunity for acts carried out in exercising their duties from any judicial proceedings (such as prosecution, arrest, detention, civil liability).	Extra-parliamentary immunity from arrest and detention, except if - the member pleads guilty; - he is apprehended in <i>flagrante delicto</i> ; - the minimum sentence for the alleged offence is two years imprisonment or more.
Acts covered by immunity	Statements made and acts committed when exercising the parliamentary mandate.	All offences which may lead to the above-mentioned measures, except: - offences punishable by 2 years' imprisonment; - offences committed in <i>flagrante delicto</i> .
Persons covered	Members of Parliament.	Members of Parliament.
Duration of immunity	Unlimited.	For the duration of sessions.
Can immunity be lifted? By whom?	No.	Yes, by Parliament.
Procedure for lifting immunity	-	- The proposal is submitted to the Speaker of Parliament by the Public Prosecutor or any person wishing to institute proceedings against a Member of Parliament. - The decision is taken by a majority of five-sixths of those voting.
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Switzerland	
	Non-liability (Immunität)	Inviolability (Sessionsteilnahmegarantie)
Legal basis	Federal law on the liability of the Confederation, members, the authorities and officials (Art. 51).	Federal law on political safeguards and police for the Federation (Art. 50).
Scope of immunity	Distinction between absolute and relative non-liability (absolute/relative Immunität).	Extra-parliamentary immunity. The deputy cannot be prosecuted for offences unrelated to his official activities and situation without the consent of the Chamber to which he belongs, except with his own agreement or if apprehended in <i>flagrante delicto</i> . Crimes and offences committed on the person of a deputy during the session come within the jurisdiction of the Federal Court (Swiss Supreme Court).
Acts covered by immunity	Absolute non-liability for opinions expressed in sessions or committees. Relative criminal non-liability for offences committed in relation with the deputy's official activity or situation. Thus, for example, defamation, abuse of power, fraudulent management of public interests, passive corruption, violation of parliamentary duties, divulging military secrets are excluded. Intercepting a deputy's mail, telephone calls or other communications also require the Chambers' consent.	The deputy is no longer protected: - if he gives his agreement; - if the Chamber consents; - in case of detention on remand for presumed absconding; - if apprehended committing a crime; - where a prison sentence has been passed in final judgment, enforcement of which was ordered between sessions.
Persons covered	Members of Parliament (the States Council and the National Council).	Members of Parliament (the States Council and the National Council).
Duration of immunity	Unlimited.	For the duration of sessions.
Can immunity be lifted? By	Only relative non-liability can be lifted, with the agreement	Yes, by the Chamber to which the Member belongs.

whom?	of both Chambers which may send the deputy before the Federal Court.	
Procedure for lifting immunity	- The decision is taken by both Chambers.	- The proposal is submitted to the Chamber concerned.
Conditions attached to lifting immunity	The act or opinion expressed is unrelated to the deputy's official activities or situation.	-
Possibility of appeal	-	-

Categories of parliamentary immunity	Turkey	
	Non-liability	Inviolability
Legal basis	Constitution (Arts. 83 & 84).	Constitution (Arts. 83 & 84).
Scope of immunity	Absolute non-liability.	Relative extra-functional immunity: - with respect to questioning, arrest, detention, legal proceedings.
Acts covered by immunity	Immunity with respect to statements made and votes cast in the exercise of the deputies' duties, for opinions expressed in the Assembly or repeated outside (unless, in the latter case, the Bureau decides otherwise), even if they are insulting or defamatory.	All acts committed before and after election, - except where a deputy is apprehended committing a crime punishable by a heavy sentence and, - except in cases provided for by Article 14 of the Constitution, provided investigations began before the elections.
Persons covered	Members of the Turkish Grand National Assembly.	Members of the Turkish Grand National Assembly.
Duration of immunity	Permanent.	For the duration of the mandate.
Can immunity be lifted? By whom?	No.	Yes, by the Turkish Grand National Assembly.
Procedure for lifting immunity	Idem.	In case of <i>flagrante delicto</i> involving offences punishable by a heavy prison sentence, or offences subject to Article 14 of the Constitution provided that the investigations began before the elections, the competent authority informs the Assembly of any proceedings. But the deputy only serves his sentence at the end of his mandate. However, if he is re-elected, the Assembly must be asked to renew its consent. - The proposal is submitted to the Speaker of the Assembly by the Public Prosecutor through the Minister of Justice. - The request is examined by a "preparatory committee" composed of five members, then by the Constitution and Justice Committee which reads its report to a plenary session of the

		Assembly. - If the Committee decides in favour of lifting immunity, the matter is decided by the plenary session of the Assembly.
Conditions attached to lifting immunity	-	- Lifting immunity must not be unconstitutional or contrary to the Assembly's Rules of Procedure. The decision to lift immunity is therefore reviewed by the Constitutional Court.
Possibility of appeal	-	Where the Assembly has lifted a deputy's parliamentary immunity, he or any other member has one week in which to appeal to the Constitutional Court which makes a ruling within 15 days.

Categories of parliamentary immunity	Ukraine	
	Non-liability	Inviolability and special jurisdiction of the Supreme Court of Ukraine
Legal basis	-	Constitutional Accord between the President and Parliament (Verkhovna Rada) (Art. 14); Law on the Status of people's Deputies of Ukraine (Art. 27).
Scope of immunity	-	Extra-parliamentary immunity: - from criminal responsibility, arrest, administrative measures, court proceedings.
Acts covered by immunity	-	All acts which may lead to criminal liability, arrest.
Persons covered	-	Members of Parliament.
Duration of immunity	-	For the duration of the mandate.
Can immunity be lifted? By whom?	-	Yes, by Parliament during sessions; between sessions, by the Speaker in the case of a serious offence, confirmed by Parliament.
Procedure for lifting immunity	-	- The proposal is submitted to Parliament by the Public Prosecutor or the President of the Supreme Court. Parliament must reply within a month. - The Committee of Parliamentary Ethics draws up a report, after hearing the deputy in the presence of the Public Prosecutor or the President of the Supreme Court. - The decision is taken and grounds given for it by Parliament by a two-thirds majority of members of the Chamber.
Conditions attached to lifting immunity	-	A public order offence punishable by the courts.
Possibility of appeal	-	The Public Prosecutor and the President of the Supreme Court have a duty to keep Parliament informed at every stage of

		proceedings.
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Categories of parliamentary immunity	United Kingdom	
	Non-liability	Inviolability
Legal basis	The Bill of Rights, 1689; law and custom of the High Court of Parliament; Privilege of Parliament Act; Parliamentary Privilege Act.	The Bill of Rights, 1689; law and custom of the High Court of Parliament; Privilege of Parliament Act; Parliamentary Privilege Act.
Scope of immunity	Freedom of speech in "proceedings in Parliament" and immunity from private actions to this end.	Immunity from arrest and detention for all civil actions, although for civil offences the practice has fallen into disuse.
Acts covered by immunity	"Proceedings in Parliament". Both Houses have the right to institute inquiries and summon witnesses, punish those guilty of breaches of privilege and contempt and publish papers without fear of an action for defamation. As well as the protection of Parliamentary privilege, Lords also benefit from the privilege of peerage. Members remain responsible for everything they do and say outside proceedings in Parliament, outside the House and in the course of their constituency duties.	A writ or subpoena may not be served on a Member in the precincts of the House without leave of the House.
Persons covered	The House of Commons and the House of Lords collectively and their members individually. Legal privilege also extends to witnesses, counsel, petitioners and other persons called upon to attend and participate in proceedings.	The House of Commons and the House of Lords collectively and their members individually.
Duration of immunity	Unlimited.	For 40 days after every prorogation or dissolution.
Can immunity be lifted? By whom?	Yes?	Yes, by the House to which the Member belongs.

Procedure for lifting immunity	<ul style="list-style-type: none">- The Committee of Privileges of each House gives its opinion on each complaint of breach of privilege or contempt of Parliament.- Only the House itself may impose disciplinary measures or take decisions in this domain.	The police or the judge have a duty to inform the Speaker or the Lord Chancellor of any arrest followed by detention or a prison sentence imposed on a Member of Parliament.
Conditions attached to lifting immunity	-	-
Possibility of appeal	-	-