

GUIDE TO IMMUNITY CODING

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Introduction

This document explains the way in which we assign numeric values to different immunity regimes. It begins with a brief overview of cross-jurisdictional variation in immunity before turning to the coding rubric, an explication of the assumptions made, and three illustrations of how immunity provisions in three countries—the United Kingdom, Paraguay, and France—would be coded under this system.

Project Overview

We seek to quantify the level of protection from criminal prosecution—immunity—across 73 democracies in the present and past. We measure the contemporary strength of immunity in each country in order to analyze whether immunity correlates with poor governance. We measure the historical strength of immunity in each country to measure whether immunity regimes are largely stable over time. We measure the level of protection by examining constitutions, legislative documents, and case law. We use our analysis to construct a score based on an eighteen-variable rubric that comprises six variables each for legislators, ministers, and chief executives.

Cross-Jurisdictional Variation

A casual reading of different constitutions reveals substantial differences in the immunity regimes of democratic countries. At one end of the spectrum are countries without immunity protection, such as the United Kingdom. While members of the British Parliament and British ministers may speak or vote without the threat of legal retaliation, no procedural obstacles impede or limit the criminal prosecution of these political actors.

At the other end are countries with strong immunity regimes, such as Paraguay. The Constitution of Paraguay stipulates that any arrest or prosecution of a member of the legislature must be authorized by a two-thirds majority vote in the legislative chamber to which the legislator belongs. Should prosecutors wish to take action against a minister or the president, the lower house of the legislature must first impeach the politician by a two-thirds vote, followed by a two-thirds majority vote for removal in the Paraguayan Senate. It is within the Senate's sole purview to determine whether the removed politician should be referred to a competent court, which may only then proceed with criminal prosecution. Additionally, Paraguayan law grants former presidents special legal status through which they retain the procedural protections from prosecution afforded to Paraguayan legislators for the remainder of their lifetimes.

Most contemporary democracies employ immunity regimes that lie somewhere between the two extremes of the United Kingdom and Paraguay. France approximates a mid-point between the two. French legislators enjoy immunity from criminal prosecution for the duration of their mandate, but this immunity may be waived with the consent of a legislative committee. French ministers do not enjoy immunity from criminal prosecution. The President of France must be removed from office before being prosecuted, a process that requires the consent of supermajorities in both houses of the legislature.

These differences among the approaches to immunity in the United Kingdom, Paraguay, and France evince significant cross-jurisdictional variation in the strength and nature of immunity regimes throughout the modern democratic world.

Immunity of Legislators, Ministers, & Chief Executives

We study the immunity protections afforded to legislators, ministers, and chief executives. This distinction is crucial; while some countries protect only legislators from criminal prosecution, others protect only members of the executive branch, while others protect all politicians. We derive an aggregate measure of immunity protection that incorporates the strength of immunity protections enjoyed by each group of politicians.

A broad measure that incorporates the immunity protections of all three groups has two distinct advantages. First, a wider coverage of immunity provisions better captures the interplay among different political actors. It is not always possible to identify the extent to which immunity provisions that insulate one set of political actors may also influence the effective immunity enjoyed by another, distinct set of political actors. For example, since

executive branch members in some countries often enter the legislature after leaving office, the likelihood of malfeasance behavior among members of the executive branch may depend to some degree on the strength of the country's legislative immunity regime. Second, governance indices do not measure the performance of each individual branch of government, but, rather, throughout the broader public sector. A comprehensive coding of immunity protections that includes legislators, ministers, and chief executives most adequately measures the degree to which a society has chosen to place its politicians above the law and, therefore, best corresponds to aggregative measures of governance.

In addition to the coverage of different kinds of politicians, the key differences between different countries' immunity regimes present themselves along the following lines: (1) the procedure required to lift immunity, which can be more or less burdensome; (2) the duration of immunity protection, which can coincide with the political office or extend beyond it; (3) the scope of activities covered and the legal actions prohibited by immunity. We discuss each in turn.

1. Procedure: Protection from criminal prosecution, where it exists, may generally be waived if some procedural requirement is fulfilled. Jurisdictions with strong immunity protection employ a number of burdensome procedural obstacles that must be overcome before a politician can be prosecuted. These obstacles are few and undemanding in jurisdictions with weak immunity protections. In the overwhelming majority of jurisdictions that offer their legislators immunity, this protection may be waived if either a supermajority or a simple majority of legislators in legislative houses to which the legislator in question belongs votes to remove his or her immunity. In jurisdictions where immunity protection is not as robust, the procedure for waiving immunity requires the consent of only a legislative committee, the cabinet, the chief executive, or the chief justice of an appellate court. The immunity of ministers and chief executives is lifted in the same way as that of legislators, though the assent of majorities in two legislative houses is occasionally required to authorize prosecution in countries with bicameral legislatures.
2. Duration: Immunity provisions may also differ from one another with respect to the time during which they apply. Immunity in most jurisdictions expires at the end of a politician's term of office. Other jurisdictions, however, continue to protect politicians from prosecution after their term of office has expired, as is the case with former presidents in Paraguay, who enjoy the same immunity as legislators for the remainder of their lifetime.
3. Scope: Immunity provisions in different jurisdictions provide politicians with varying degrees of coverage, which may affect immunity in two ways. First, immunity provisions may limit the application of immunity to certain crimes, such as those with some relation to a politician's official duties. The Greek ministerial immunity provision is an example of such laws:

No prosecution against, nor questioning or preliminary questioning of present or former members of the Government] . . . for acts carried out by commission or omission in the discharge of their duties shall be permitted, before Parliament has decided on this matter.¹

The law has been interpreted to provide ministers with protection for public corruption crimes.² Alternatively, these provisions may extend further and protect against prosecution for the commission of common crimes wholly unrelated to a politician's official duties, such as the legislative immunity clause in the Constitution of El Salvador: "[D]eputies may not be judged for serious crimes that they commit except for those cases in which the Legislative Assembly declares in advance that there are grounds for prosecution. . . ."³ Such laws have protected politicians from prosecution for crimes unrelated to their official duties—even for crimes as serious as homicide.⁴ Second, the range of prosecutorial activities that immunity proscribes differs from one jurisdiction to another. Some jurisdictions prohibit only the arrest and detention of a legislator, while others prevent the opening of judicial proceedings, as well. Ministers and chief executives who have immunity may generally not be arrested, detained, or prosecuted without the fulfillment of the appropriate procedural requirement.

Scoring Rubric

We use an eighteen-variable rubric to score immunity provisions and compare their strength across different countries. The first six variables apply to legislators, the second six to ministers, and the last six to

¹ CONST. Greece art. 86, § 2.

² See, case of Akis Tsochatzopoulos (2011).

³ CONST. El Salvador, art. 238. Translation is authors' own.

⁴ See, e.g., Juanita Darling, *Salvadoran Legislator's Immunity Upheld*, Los Angeles Times (2000).

chief executives. In all cases, a value of “1” indicates that the protection is provided by law, while a value of “0” indicates that no such protection from criminal liability exists.

Questions 1-3 measure the differences in the procedural requirement necessary to waive legislative immunity. Question 4 addresses the duration of legislative immunity protection and distinguishes between regimes in which legislative immunity expires at the end of the legislative term and those in which it continues to apply beyond the term of office. Questions 5 and 6 refer to the scope of legislative immunity. Question 5 examines the types of crimes covered by immunity protection, and question 6 indicates whether immunity also protects legislators from judicial proceedings in addition to arrest.

The ways in which we quantify the strength of ministerial and chief executive immunity provisions are identical to one another, as immunity provisions applicable to ministers behave in the same way as those that apply to chief executives. Questions 7-10 and 13-16 code the essential differences in the procedural difficulty of waiving immunity for executive branch members. The requirements for waiving executive branch immunity may involve the assent of two legislative houses. Consequently, there exists one supplementary procedural question for ministers and chief executives that does not exist for legislators. Questions 11 and 17 code immunity provisions that extend beyond the term of office. Questions 12 and 18 measure the scope of ministerial and chief executive immunity by inquiring about the types of crimes protected by immunity.

<i>Category</i>	<i>Question</i>
LEGISLATIVE IMMUNITY Procedure Duration Scope	<ol style="list-style-type: none"> 1. Is there a procedural impediment that restricts the detention of a legislator on criminal charges? 2. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges? 3. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges? 4. Do immunity provisions continue to protect legislators after their term of office expires? 5. Do immunity provisions protect legislators from prosecution for the commission of common crimes unrelated to official duties? 6. Do immunity provisions protect legislators from judicial proceedings?
MINISTERIAL IMMUNITY Procedure Duration Scope	<ol style="list-style-type: none"> 7. Is there a procedural impediment that restricts the prosecution of a minister on criminal charges? 8. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges? 9. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges? 10. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of a minister on criminal charges? 11. Do immunity provisions continue to apply protect ministers after their term of office expires? 12. Do immunity provisions protect ministers from prosecution for the commission of common crimes unrelated to their official duties?
CHIEF EXECUTIVE IMMUNITY Procedure	<ol style="list-style-type: none"> 13. Is there a procedural impediment that restricts the prosecution of the chief executive on criminal charges? 14. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of the chief executive on criminal charges? 15. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of the chief executive on criminal charges? 16. Is the assent of legislators in two legislative houses necessary to

Duration	authorize the prosecution of the chief executive on criminal charges?
Scope	17. Do immunity provisions continue to apply protect the chief executive after his/her term of office expires? 18. Do immunity provisions protect the chief executive from prosecution for the commission of common crimes unrelated to his/her official duties?

Rules

The large number of countries that we study necessitates some basic rules, without which empirical comparison of law in different jurisdictions would not be possible.

Generally Applicable

Immunity of Politicians Defined

We measure immunity from criminal prosecution. For legislators, we measure immunity from criminal prosecution for acts unrelated to a legislator's speech, oral or written, in parliament. Any provision that endows officials with immunity from civil suit is not reflected in our empirical scheme.

Lack of Statutory Guidance

Where legislation, case law, or parliamentary rules of procedure do not suggest otherwise, no mention of immunity from criminal prosecution in a constitution or governing document suggests that there is no immunity.

Unspecified Majorities

When an immunity provision requires the consent of some political body but no majority is defined, we consider consent to imply a simple majority of the body's members unless case law or legislation suggests otherwise.

Immunity Conditioned on Penalties

Some jurisdictions afford politicians immunity from prosecution for criminal activities that carry a penalty of incarceration that is fewer than a stipulated number of years; a politician involved in criminal activity that carries a penalty of incarceration greater than or equal to the stipulated number of years no longer enjoys immunity from criminal prosecution for that act. As the penalties for various public corruption offenses are found primarily in criminal codes and sentencing guidelines, the retrieval of which was not possible for some jurisdictions, we consider public corruption to be an offense for which the punishment will involve more than three years in detention.

Legislative Immunity

Crimes Committed In Flagrante Delicto

Nearly all legislative immunity clauses have exceptions for cases in which a legislator is caught *in flagrante delicto* (caught in the act of committing an offense). As this exception is as limited as it is ubiquitous, we ignore it for the purposes of measuring immunity.

Differences Among Houses

Where the rules governing immunity protection differ between the two houses of a bicameral legislature, as in Germany, we consider only the rules applicable to the lower legislative house because of the dominant role of the lower house in those jurisdictions.

Judicial Proceedings

Where a legislative immunity clause mentions protection from arrest but does not mention protection from the opening of judicial proceedings, we assume *expressio unius est exclusio alterius* and conclude that there is no protection from the opening of judicial proceedings.

Parliamentary Sessions

Some countries provide legislative immunity only while the legislature is in session. We consider all countries as providing criminal immunity to their legislators unless the constitution clearly indicates that immunity applies only within the physical bounds of the parliament building and, where applicable, when legislators are traveling to or from the parliament building.

Ministerial Immunity

Members of the Government and Parliamentary Immunity

When there is no explicit mention of ministerial immunity, parliamentary immunity may apply if ministers who are members of parliament continue to exercise the parliamentary mandate. To correct for this potential problem, we must infer that in parliamentary systems where there is no mention of ministerial immunity, unless case law or some constitutional provision suggests that members of parliament lose their parliamentary mandate upon

becoming members of the government, members of the government enjoy the immunity protection of members of the parliament when members of the government are generally selected from the parliamentary membership.

Chief Executive Immunity

Chief Executive Definition

The chief executive in each country refers to the president in presidential and semi-presidential systems and to the prime minister or equivalent in parliamentary systems.

Historical Constitutions

Constitutional Selection

We measure the level of immunity in historical constitutions in order to gauge the stability of immunity regimes over time. Capturing the level of immunity afforded to monarchs or unelected legislatures would interfere with the validity of our historical instrument by skewing immunity scores; thus, we assess the level of immunity in the earliest available democratic constitution, which we define as the document or practices that governed a country when both the executive and legislative branches of government were democratically elected. Where early documents were unavailable or unclear, we turned to the next available democratic constitution. For this reason, for some countries, the constitution or founding document that we analyzed may not be the earliest written governing document.

Historical Constitutions & Geographic Boundaries

To take into consideration changes in national boundaries, where a country was previously part of a larger democratic entity, we analyze the historical constitution of the larger democratic entity. For this reason, multiple countries may share the same historical constitution. For example, we consider the 1920 Constitution of Czechoslovakia to be the historical constitution for the Czech Republic and the Slovak Republic. As colonized countries were often not accorded full representation, colonized countries do not assume the historical constitution of the democratic colonizing country.

Retroactivity of Case Law

In some countries that have been governed by the same constitution for a lengthy period, a constitutional issue may have been interpreted only recently. Where case law has interpreted a provision of a constitution that is in force today—and that provision, without any lexical changes, was controlling in the first democratic constitution—we must presume that the modern interpretation would have been controlling had the case law come before the judiciary in the historical period.

Coding Illustration: Three Case Studies

In order to demonstrate how our coding system functions, we provide examples of coding from the United Kingdom, France, and Paraguay.

United Kingdom

The United Kingdom is a constitutional monarchy with a parliamentary system. The British approach of providing politicians with no immunity from criminal prosecution has spread throughout the world—it is found largely in common-law countries—and is also used in Australia, Canada, India, Jamaica, Malaysia, Malta, Mauritius, New Zealand, Papua New Guinea, South Africa, and Trinidad and Tobago. The Constitution of the United Kingdom does not exist as a single document and, instead, comprises a number of traditions, judicial cases, and legislative acts that date to the Glorious Revolution. While we do consult statutes, we rely heavily on secondary sources for information on impediments to the criminal prosecution of British politicians.

Contemporary Legislative Immunity

Relevant Provisions/Sources

Bill of Rights (1689), art. IX: "...the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."

Parliamentary Privilege Act (1770), art. 1, 2. "After 24 June, 1770, Suits may be prosecuted in Courts of Record, Equity, or Admiralty, and Courts having Cognizance of Causes Matrimonial and Testamentary, against Peers, and Members of the House of Commons, and their Servants, &c. Any person or persons shall and may at any time commence and prosecute any action or suit in any court of record or court of equity or of admiralty, and in all causes matrimonial and testamentary, in any court having cognizance of causes matrimonial and testamentary, against any peer or lord of Parliament of Great Britain, or against any of the knights, citizens, and burgesses, and the commissioners for shires and burghs of the House of Commons of Great Britain for the time being, or against their or any of their menial or any other servants, or any other person intitled to the privilege of Parliament of Great Britain; and no such action, suit, or any other process or proceeding thereupon shall at any time be impeached, stayed, or delayed by or under colour or pretence of any privilege of Parliament. But the

Persons of Members of the House of Commons not to be arrested or imprisoned. Provided nevertheless, that nothing in this Act shall extend to subject the person of any of the knights, citizens, and burgesses, or the commissioners of shires and burghs of the House of Commons of Great Britain for the time being, to be arrested or imprisoned upon any such suit or proceedings.”

Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution* (1914), part II, ch. 4: “[The rule of law] means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the “rule of law” in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.”

Interparliamentary Union, *United Kingdom: House of Commons*, available at <http://www.ipu.org/parline-e/reports/2335.htm> (last visited Jan. 21, 2013): [Parliamentary privilege] applies only to civil proceedings, covers all offences, but protects MPs only from arrest and imprisonment. . . .”

See case of Richard John Bingham, 7th Earl of Lucan (1974).

Analysis

While British legislators enjoy immunity from civil arrest, they do not enjoy any protection related to criminal proceedings.

Contemporary Ministerial Immunity

Relevant Provisions

Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution* (1914), part II, ch. 4: “[The rule of law] means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the “rule of law” in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.”

See case of Chris Hune (2012).

Analysis

We found no case or provision granting immunity to ministers for crimes they have committed. As Chris Hune was charged with perverting the course of justice while he served as Secretary of State for Energy and Climate Change, we conclude that there is no ministerial immunity in the United Kingdom.

Contemporary Chief Executive Immunity

Relevant Provisions

Albert Venn Dicey, *Introduction to the Study of the Law of the Constitution* (1914), part II, ch. 4: “[The rule of law] means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary Law Courts; the “rule of law” in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals.”

See case of Chris Hune (2012).

Analysis

We found no case or provision granting immunity to ministers or the prime minister for crimes they have committed. As Chris Hune was charged with perverting the course of justice while he served as Secretary of State for Energy and Climate Change, we conclude that there is no immunity from criminal prosecution for the British prime minister.

Paraguay

Paraguay is a presidential system with a bicameral legislature. The Paraguayan Constitution has a strong legislative immunity regime and is similar in language, form, and strength to the immunity regimes of Argentina, Chile, the Philippines, Peru, and Uruguay. We use the Spanish language version of the Constitution of Paraguay from the Political Database of the Americas, Edmund A. Walsh School of Foreign Service, Georgetown University, available at <http://pdba.georgetown.edu/constitutions/paraguay/paraguay.html> (last visited January 14, 2013). However, we quote an English translation from Dr. Axel Tschentscher, International Constitutional Law Project, University of Bern, available at http://www.servat.unibe.ch/icl/pa00000_.html (last visited January 14, 2013).

Contemporary Legislative Immunity
Relevant Provisions

CONST. PARAGUAY, art. 225: “(1) No charge may be pressed in court against a member of Congress for the opinions he may have expressed in discharging his duties. No senator or deputy may be arrested from the day of his election until the end of his term, unless he is caught *in flagrante delicto* in relation to a crime meriting a prison sentence. In this case, the official intervening will place the legislator under house arrest and report the arrest to the respective chamber and to a competent judge immediately, to whom he will submit the case files as soon as possible. (2) If a court of law orders a pretrial inquest against a senator or a deputy, the presiding judge will send a copy of the case files to the respective chamber, which will examine the merits of the inquest and, by a two-thirds majority vote, will decide whether the senator or deputy involved should be stripped of his immunity in order to stand trial. If the chamber votes against the legislator, it will suspend his immunity so that he may be brought to trial.”

Analysis

The provision explicitly states that Paraguayan legislators enjoy immunity from arrest and may not be subject to judicial proceedings that proceed beyond a pretrial inquest. A two-thirds supermajority vote is required to subject a legislator to detention and trial. As the provision does not make any mention of immunity for former legislators, we conclude that such protection does not exist.

Contemporary Ministerial Immunity
Relevant Provisions

CONST. PARAGUAY, art. 225: “(1) The president of the Republic, the vice president, cabinet *ministers*, justices of the Supreme Court of Justice, the attorney general, the public defender, the comptroller and the deputy comptroller general of the Republic, and members of the Superior Electoral Court may be forced to undergo impeachment proceedings for malfeasance in office, for crimes committed in office, or for common crimes. (2) The Chamber of Deputies, by a two-thirds majority, will press the respective charges. The Senate, by a two-thirds absolute majority, will conduct a public trial of those charged by the Chamber of Deputies and, if appropriate, will declare them guilty for the sole purpose of removing them from office. In cases in which it appears that common crimes have been committed, the files on the respective impeachment proceedings will be referred to a competent court.”

Analysis

As this provision describes a process of bringing charges against a minister, we assume *expressio unius est exclusio alterius* and conclude that there is no other way of prosecuting a minister in Paraguay. Under this provision, a two-thirds majority vote in both houses is necessary to suspend the minister from office and refer him/her to a competent court. This provision explicitly addresses common crimes and crimes committed in office. As former ministers are not mentioned, we assume that they do not enjoy immunity protection.

Contemporary Chief Executive Immunity
Relevant Provisions

CONST. PARAGUAY, art. 225: “(1) The president of the Republic, the vice president, cabinet ministers, justices of the Supreme Court of Justice, the attorney general, the public defender, the comptroller and the deputy comptroller general of the Republic, and members of the Superior Electoral *Court* may be forced to undergo impeachment proceedings for malfeasance in office, for crimes committed in office, or for common crimes. (2) The Chamber of Deputies, by a two-thirds majority, will press the respective charges. The Senate, by a two-thirds absolute majority, will conduct a public trial of those charged by the Chamber of Deputies and, if appropriate, will declare them guilty for the sole purpose of removing them from office. In cases in which it appears that common crimes have been committed, the files on the respective impeachment proceedings will be referred to a competent court.”

CONST. PARAGUAY, title V, art. 14: “The office of senator for life will be held by the citizen holding the office of president of the Republic at the time of the approval of this Constitution, but it will not be extended to any previous president.”

Analysis

As article 225 describes a process of bringing charges against a sitting president, we assume *expressio unius est exclusio alterius* and conclude that there is no other way of prosecuting a president in Paraguay. Under article 225, a two-thirds majority vote in both houses is necessary to suspend the president from office and refer him/her to a competent court. Article 225 explicitly addresses common crimes and crimes committed in office. Title V, article 14 gives former presidents the immunity of a senator.

France

France is a semi-presidential system with a unicameral legislature. It exemplifies a moderate immunity regime that is similar in strength and form to those of Indonesia, Panama, and South Korea. A translation of the Constitution was accessed from the website of the French National Assembly, available at <http://www.assemblee-nationale.fr/english/8ab.asp> (last visited January 21, 2013).

Contemporary Legislative Immunity

Relevant Provisions

CONST. FRANCE, art. 26: “No Member of Parliament shall be arrested for a serious crime or other major offence, nor shall he be subjected to any other custodial or semi-custodial measure, without the authorization of the Bureau of the House of which he is a member. Such authorization shall not be required in the case of a serious crime or other major offence committed *flagrante delicto* or when a conviction has become final.”

Analysis

French legislators enjoy immunity from criminal prosecution, which may be waived by the Bureau of the National Assembly or Senate. As the respective Bureau is a legislative committee, the assent of a majority of legislators in the relevant house is not necessary for the prosecution of a member to proceed. Article 26 explicitly applies to all major offenses, not only to those committed in the course of official duties. While a legislator may not be arrested or held in custody, article 26 does not prohibit the opening of judicial proceedings against a member of the legislature.⁵

Contemporary Ministerial Immunity

Relevant Provisions

CONST. FRANCE, title X, art. 68-1: “Members of the Government shall be criminally liable for acts performed in the holding of their office and classified as serious crimes or other major offences at the time they were committed.”

Analysis

As title X, article 68-1 explicitly authorizes the prosecution of ministers for major crimes committed in the course of their duties—and, implicitly, for all crimes committed outside the scope of their duties—without any procedural impediment, ministers do not enjoy immunity from criminal prosecution in France.

Contemporary Chief Executive Immunity

Relevant Provisions

CONST. FRANCE, title IX, art. 67: “Throughout his term of office the President shall not be required to testify before any French Court of law or Administrative authority and shall not be the object of any civil proceedings, nor of any preferring of charges, prosecution or investigatory measures. All limitation periods shall be suspended for the duration of said term of office. All actions and proceedings thus stayed may be reactivated or brought against the President one month after the end of his term of office.”

CONST. FRANCE, title IX, art. 68: “The President of the Republic shall not be removed from office during the term thereof on any grounds other than a breach of his duties patently incompatible with his continuing in office. Such removal from office shall be proclaimed by

⁵ See, also, *France: Assemblée nationale*, Inter-parliamentary Union, available at <http://www.ipu.org/parline/reports/2113.htm> (last visited January 21, 2013).

Parliament sitting as the High Court. The proposal to convene the High Court adopted by one or other of the Houses of Parliament shall be immediately transmitted to the other House which shall make its decision known within fifteen days of receipt thereof. The High Court shall be presided over by the President of the National Assembly. It shall give its ruling as to the removal from office of the President, by secret ballot, within one month. Its decision shall have immediate effect. Rulings given hereunder shall require a majority of two thirds of the members of the House involved or of the High Court. No proxy voting shall be allowed. Only votes in favour of the removal from office or the convening of the High Court shall be counted.”

Analysis

Under article 67, the President of France may not be charged with any crime while he/she is still in office. Under article 68, in order to remove the President, both houses of the legislature must assent by a two-thirds majority vote.

Scoring Rubric for United Kingdom, Paraguay, and France:

<i>Question</i>	<i>United King.</i>	<i>France</i>	<i>Paraguay</i>
1. Is there a procedural impediment that restricts the detention of a legislator on criminal charges?	[0]	[1]	[1]
2. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges?	[0]	[0]	[1]
3. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the detention of a legislator on criminal charges?	[0]	[0]	[1]
4. Do immunity provisions continue to protect legislators after their term of office expires?	[0]	[0]	[0]
5. Do immunity provisions protect legislators from prosecution for the commission of common crimes unrelated to official duties?	[0]	[1]	[1]
6. Do immunity provisions protect legislators from judicial proceedings?	[0]	[0]	[1]
7. Is there a procedural impediment that restricts the prosecution of a minister on criminal charges?	[0]	[0]	[1]
8. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges?	[0]	[0]	[1]
9. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of a minister on criminal charges?	[0]	[0]	[1]
10. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of a minister on criminal charges?	[0]	[0]	[1]
11. Do criminal immunity provisions continue to protect ministers after their term of office expires?	[0]	[0]	[0]
12. Do criminal immunity provisions protect ministers from prosecution for the commission of common crimes unrelated to their official duties?	[0]	[0]	[1]

13. Is there a procedural impediment that restricts the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
14. Is the assent of a simple majority of legislators in one legislative house necessary to authorize the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
15. Is the assent of a supermajority of legislators in one legislative house necessary to authorize the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
16. Is the assent of legislators in two legislative houses necessary to authorize the prosecution of a chief executive on criminal charges?	[0]	[1]	[1]
17. Do criminal immunity provisions continue to apply protect the chief executive after his/her term of office expires?	[0]	[0]	[1]
18. Do criminal immunity provisions protect the chief executive from prosecution for the commission of common crimes unrelated to his/her official duties?	[0]	[1]	[1]
<i>Immunity Score</i>	0.00	0.39	0.89