جامعة الأمير عبد القادر للعلوم الإسلامية قسنطينة – الجزائر
ISSN: 1112-4377, EISSN: 2588-2384
المجلد: 29 العدد: 4 السنة: 2025
مجلة المعيار
EL MIEYAR

Procedural Immunity and Its Impact on the Criminal Prosecution of a Member of Parliament

الحصانة الاجرائية وأثرها على المتابعة الجزائية لعضو البرلمان

Aziza Larguet[1]
aziza.metatla@yahoo.com

Received: 13/03/2025 **published: 15/09/2025**
تاريخ الاستلام: 13/03/ 2025 **تاريخ النشر: 2025/09/15**

Article abstract:

Striking a balance between parliamentary immunity and the principle of equality before the law has led most legal systems to recognize the necessity of removing this obstacle through procedures established by internal regulations and parliamentary bylaws. However, the principle of parliamentary solidarity, upheld by legislators to shield themselves from judicial rulings, has led some legal frameworks to abandon the requirement of prior authorization for criminal prosecution. In Algeria, the constitutional legislator, under the 2020 Constitution, introduced a different approach from previous constitutions by entrusting the Constitutional Court with the authority to lift parliamentary immunity. This shift ensures a degree of independence, impartiality, and objectivity in decision-making.

Key words: Parliament, Procedural Immunity, Crime, Criminal Prosecution.

ملخص المقال:

إن إحداث التوازن بين الحصانة البرلمانية من جهة و مبدأ المساواة أمام القانون من جهة أخرى أقرت معظم التشريعات ضرورة إزالة هذه العقبة وفق إجراءات تم تنظيمها من خلال اللوائح و الأنظمة الداخلية للمجالس، إلا أن مبدأ التضامن النيابي الذي يتمسك به النواب البرلمانيين لأجل حمايتهم من الأحكام القضائية جعلت بعض التشريعات تتخلى عن هذا الإذن كشرط للمتابعة الجزائية، أما المؤسس الدستوري الجزائري و بموجب دستور 2020 تبنى إجراءات تختلف ما تضمنته الدساتير السابقة و أوكل مهمة رفع الحصانة البرلمانية للمحكمة الدستورية، مما يشكل نوعا من الاستقلالية و الحياد و الموضوعية في إصدار قرارتها.

كلمات مفتاحية: البرلمان؛ الحصانة الاجرائية؛ الجريمة؛ المتابعة الجزائية.

1. University of Oum El Bouaghi (Algeria)

Introduction

The constitutional principle of separation of powers has necessitated the provision of certain guarantees to members of the different branches of government to ensure their independence and enable them to perform their duties freely. Among those benefiting from such guarantees are ambassadors, judges, and Members of Parliament.

One of these guarantees is immunity, a legal safeguard granted to these officials to serve the public interest, as they represent state sovereignty. Consequently, the granting of immunity is considered one of the key manifestations of sovereignty.

Among the individuals who enjoy such immunity are Members of Parliament. Article 129 of the 2020 Algerian Constitution (Decree No. 20/442, 2020), similar to constitutional provisions in other countries, states: "A Member of Parliament enjoys immunity for actions related to the exercise of their duties, as defined in the Constitution".

However, this provision has faced significant criticism from human rights organizations due to the abuses committed by some parliamentarians under the shield of parliamentary immunity, which has effectively shielded them from criminal prosecution. Furthermore, the principle of equality before the law, a fundamental tenet of legal systems, dictates that all individuals should be subject to legal accountability, particularly in criminal matters, without distinction or exception when the conditions for criminal responsibility are met.

As a result, certain countries such as France and the United Kingdom have abolished parliamentary immunity following constitutional amendments, notably the 1995 constitutional reform, thereby subjecting Members of Parliament to criminal prosecution for any offense they commit without requiring prior procedural authorization.

Conversely, other countries, including Tunisia and Egypt, have maintained parliamentary immunity as a procedural barrier preventing criminal prosecution unless the competent parliamentary body first lifts the immunity. This approach has sparked public dissatisfaction and concern, particularly in Tunisia, where the refusal of Parliament to lift immunity for numerous MPs has been controversial. Of 14 requests for immunity waivers, only one was approved, concerning MP Sami Abdelali, on October 10, 2023. Parliament justified its stance by citing the political and electoral nature of the cases against the MPs, as stated by the rapporteur of the Internal Rules Committee. However, such justifications have been widely perceived as a form of parliamentary solidarity, strategically employed by legislators as a shield against legal accountability (Alhurra, 2024).

At the national level, while the previous constitution outlined the procedures for lifting parliamentary immunity—thus requiring authorization before initiating criminal prosecution, a system somewhat similar to that of Tunisia—the constitutional framers introduced modifications to these procedures. The most notable change was the referral of requests to lift parliamentary immunity to the Constitutional Court, whose composition ensures a degree of independence and impartiality in decision-making.

This shift raises an important question: Is the constitutional reform aimed at abolishing parliamentary immunity altogether, as seen in the United Kingdom, or is it merely a safeguard against concerns over impunity?

In light of the above, the central issue raised by this study is whether the constitutional legislator has successfully regulated procedural immunity in accordance with the newly introduced procedures for holding members of parliament criminally accountable.

To address this issue, it was necessary to combine both the descriptive and analytical methodologies. The descriptive method was employed to examine doctrinal and legislative definitions, while the analytical method was used to deconstruct legal texts and scholarly opinions. Additionally, the comparative method was applied, given its relevance to studies of this nature.

This study follows a dual-structured framework consisting of two main axes. The first focuses on the essence of parliamentary immunity by defining it and outlining its governing principles. The second is dedicated to the circumstances and procedures for lifting parliamentary immunity..

1. The Nature of Parliamentary Immunity

The mandate entrusted to a member of parliament, as a representative of the people's will and tasked with overseeing government actions, necessitates the ability to express opinions freely without incurring civil or criminal liability. This principle led the constitutional legislator to enshrine parliamentary immunity as a fundamental pillar of the rule of law. Given its significance, it is essential to define the concept of parliamentary immunity, with a particular focus on procedural immunity, before addressing its implications, which constitute the core subject of this study.

1.1 The Concept of Parliamentary Immunity:

For sound legislative practice, parliamentary immunity serves as a safeguard established by various constitutions to enable members of parliament to fulfill their representative duties freely and without fear of legal repercussions. Therefore, before defining procedural immunity, it is necessary to first clarify the general concept of parliamentary immunity and its classifications, followed by a precise definition of procedural immunity as outlined below:

1.1.1 Definition of Parliamentary Immunity:

The independence of the legislative authority from other branches of government is a fundamental principle in different political systems, and parliamentary immunity is one of its core components. Given its importance, this concept has been the subject of extensive discussion in constitutional law, with scholars offering varying definitions based on their perspectives.

parliamentary immunity can be categorized as either substantive immunity or procedural immunity. Therefore, it is essential to examine both types to gain a comprehensive understanding of procedural immunity.

Accordingly, under the 2020 Constitution, parliamentary immunity can be defined as the protection of a member of parliament from legal accountability for acts directly related to the exercise of their constitutionally designated duties. However, for acts unrelated to their parliamentary functions, a member of parliament may be held accountable only if they explicitly waive their immunity or if a decision to lift it is issued by the Constitutional Court.

1.1.2 Categories of Parliamentary Immunity:

Parliamentary immunity is generally classified into substantive immunity and procedural immunity:

Substantive immunity refers to the exemption of a member of parliament from criminal or civil liability for statements or opinions expressed during parliamentary sessions. This principle is explicitly established in Article 129, which aligns with Article 126 of the 2016 Constitution (Law No. 16/01, 2016), The latter states:

Members of parliament cannot be prosecuted, arrested, or, in general, subjected to any civil or criminal proceedings or pressure for opinions expressed, statements made, or votes cast in the exercise of their parliamentary duties."

This definition implies that, within the framework of their representative mandate, members of parliament are granted the freedom to speak and express their opinions on specific matters in a manner that serves the public interest. This definition is also consistent with the provisions of Article 87 of the Jordanian Constitution (Government of Jordan, 2016).

However, under Article 64 of the 2022 Tunisian Constitution (Government of Tunisia, 2022), the constitutional legislator introduced an exception to this immunity. Article 66 of the same

constitution stipulates that parliamentary immunity does not apply in cases involving defamation, insults, or acts of violence committed within the parliamentary chamber.

1.2 Procedural Immunity:

Procedural immunity temporarily shields a member of parliament from criminal prosecution without negating the criminal nature of the act. Legal proceedings are delayed until the immunity is lifted, at which point prosecution may proceed. Unlike substantive immunity, procedural immunity applies solely to criminal cases.

Under Article 130 of the 2020 Constitutional Amendment, this immunity ceases either when parliamentary membership expires or when the Constitutional Court lifts it. Article 131 allows for the arrest of an MP caught in flagrante delicto, with immediate notification to the relevant parliamentary bureau. This bureau may request the suspension of legal proceedings and the MP's release, but the final decision on lifting immunity rests with the Constitutional Court.

1.2.1 Effects of Procedural Immunity:

The effects of procedural immunity are reflected in defining its scope, nature, and legal classification. Therefore, it is essential to examine these effects as follows:

A. Scope of Procedural Immunity:

Article 130 of the Algerian Constitution states:

"A Member of Parliament may be subject to legal proceedings for acts unrelated to their parliamentary duties if they expressly waive their immunity. In the absence of such a waiver, the Constitutional Court may be petitioned to issue a decision regarding the lifting of immunity."

Accordingly, to ensure the continued protection of members of parliament and to provide a suitable environment for the exercise of their legislative duties, the constitutional legislator has explicitly stipulated that a member of parliament cannot be criminally prosecuted for any offense, regardless of its classification (felonies, misdemeanors, or infractions).

This stands in contrast to the Iraqi legislator, who has limited procedural immunity solely to offenses classified as felonies, as stipulated in Article 63 of the 2005 Constitution. (Government of Iraq, 2005).

Article 65 of the Tunisian Constitution prohibits the arrest of an MP during their mandate unless their immunity is lifted. While the provision does not specify covered offenses, it is inferred to apply primarily to felonies and misdemeanors, as minor infractions generally do not warrant arrest.

Regarding flagrante delicto, both the Algerian (Article 131, 2020 Constitution) and Tunisian (Article 65, 2022 Constitution) legal systems permit the immediate arrest of an MP caught in the act. However, formal legal proceedings cannot commence until parliamentary immunity is lifted.

A legal ambiguity exists concerning the statute of limitations when procedural immunity prevents prosecution during an MP's mandate. If the Constitutional Court refuses to lift immunity and the MP's term expires, the question arises as to whether criminal proceedings can still be initiated.

While the Algerian Constitution does not explicitly address this issue, general legal principles suggest that as long as the statute of limitations has not expired, the Public Prosecution retains the right to proceed once the MP's mandate ends and their immunity ceases. (El-Hamdani, 2021, p. 133).

B. Effects Related to the Nature of Procedural Immunity:

Procedural immunity is characterized by its limited and temporary nature, meaning that its legal effects apply only during the period in which the member of parliament enjoys immunity. Some constitutions provide members of parliament with comprehensive procedural immunity for all acts committed during their parliamentary term, allowing prosecution only if the member explicitly and formally waives their immunity in writing or if a decision to lift immunity is issued by the competent authority. This approach has been adopted by the Egyptian constitutional legislator in Article 113 of the 2019 constitutional amendment.

Moreover, procedural immunity does not negate the criminal nature of the act but merely prevents legal proceedings from being initiated during the parliamentary term. It is also considered a matter of public order, applies exclusively to criminal cases rather than civil cases, and is strictly limited to the member of parliament, without extending to their family members.

C. Legal Classification of Procedural Immunity:

Legal scholars have expressed divergent views regarding the legal classification of procedural immunity:

- The First perspective: Some argue that procedural immunity is a functional privilege, designed to safeguard parliamentary independence and ensure that MPs can perform their duties without undue interference, thereby serving the public interest.
- The second perspective considers parliamentary immunity as a procedural obstacle that prevents the initiation of criminal proceedings. According to this view, the offense exists with all its legal elements, but the requirement of prior authorization for lifting immunity obstructs the prosecution process.
- The third perspective argues that procedural immunity is purely a personal exemption that limits the state's power to impose penalties. However, this argument is not valid, as it has been established that immunity serves a functional, rather than a personal, purpose. The strongest evidence supporting this view is that immunity ceases to exist once parliamentary membership is terminated.

The prevailing legal stance holds that procedural immunity is merely a temporary procedural rule that does not exempt an MP from criminal responsibility but only suspends legal proceedings until authorization is granted by the competent authority (Ali, pp. 535-536).

2. Cases and Procedures for Lifting Procedural Immunity

The Algerian constitutional framework aligns with various legal systems that recognize parliamentary immunity as a fundamental principle to protect the independence of the legislature and enable MPs to carry out their parliamentary duties without external pressure. However, concerns have been raised particularly by human rights advocates regarding the abuse of parliamentary immunity, with some MPs exploiting their immunity to evade legal accountability for crimes unrelated to their parliamentary functions.

Additionally, parliamentary solidarity has played a role in obstructing legal proceedings, as parliaments have frequently refused to lift procedural immunity, effectively shielding MPs from prosecution.

To address these concerns, the 2020 Algerian Constitution introduced significant reforms regarding the lifting of procedural immunity. Notably, the Constitutional Court was granted a decisive role in cases where an MP refuses to voluntarily waive their immunity.

To clarify these procedures, the following analysis will examine:

- Voluntary Waiver of Immunity.
- Cases Where an MP Refuses to Waive Immunity.

2.1 Voluntary Waiver of Procedural Immunity:

The Algerian constitutional framework, like that of several other legal systems, grants procedural immunity to MPs for acts unrelated to their parliamentary duties. This principle is enshrined in Article 130 of the Algerian Constitution, which stipulates that legal proceedings cannot be initiated against an MP unless they voluntarily and explicitly waive their immunity. Therefore, it is essential to clarify both the concept of waiving procedural immunity and the procedures governing such a waiver.

2.1.1 Concept of Voluntary Waiver of Procedural Immunity:

The ambiguity surrounding the term used by the Algerian constitutional legislator regarding the waiver of procedural immunity necessitates a precise examination of its meaning.

Some scholars define it as a newly introduced mechanism within the realm of constitutional policy in Algeria, allowing parliament to explicitly renounce its immunity as one of the grounds for the cessation of parliamentary immunity. (Khalfawi, 2021, p. 1605)."

Thus, waiving parliamentary immunity essentially means removing the legal obstacle that previously prevented the Public Prosecution from initiating proceedings against an MP for actions unrelated to their constitutionally defined duties.

However, this provision unique to the Algerian constitutional system has sparked significant criticism and controversy, including the following concerns (Deboucha, pp. 221-222):

- Parliamentary immunity is granted to protect the legislature, not individual MPs.
- The primary purpose of parliamentary immunity is to safeguard the legislative institution and uphold the principle of separation of powers.
- Therefore, it is linked to the parliamentary function itself, rather than to individual MPs, meaning that an MP should not have the authority to waive something they do not personally own.
- Parliamentary immunity is a matter of public order.
- Since immunity is designed to ensure the uninterrupted functioning of Parliament, it is considered a fundamental principle of public order.
- Consequently, allowing MPs to waive it would be legally invalid and unenforceable.
- The constitutional provision fails to establish clear criteria for distinguishing parliamentary acts from non-parliamentary acts.
- If an MP is permitted to waive their immunity only for acts unrelated to their constitutional functions, how is the distinction between parliamentary and non-parliamentary acts determined?
- The Algerian constitutional framework does not provide an objective standard for making this distinction, leaving room for legal uncertainty.
- The waiver procedure is not clearly defined.
- The Algerian Constitution does not specify the procedural steps required for an MP to waive their immunity.
- Furthermore, the internal regulations of the People's National Assembly and the Council of the Nation also fail to outline these procedures, reinforcing the ambiguity of this constitutional provision.

2.1.2 Procedures for Waiving Parliamentary Immunity:

Article 130 of the Algerian Constitution grants members of parliament the right to waive their parliamentary immunity. However, it does not outline the specific procedures for doing so, the authority to which the waiver must be submitted, or whether parliament can reject the waiver if it disrupts its functions. Additionally, it remains unclear whether such a waiver immediately triggers legal proceedings.

While the internal regulations of the Council of the Nation and the People's National Assembly do not explicitly define the procedural framework for waiving immunity, Article 124(2) of the Council of the Nation's (Council of the Nation, 2017) regulations states that an MP may submit a written declaration to the Bureau of the Council, making the waiver final and irreversible. Notably, no timeframe is specified for submitting such a waiver.

Article 125 of the internal regulations stipulates that a request to lift parliamentary immunity must come from the Minister of Justice and be submitted to the Bureau of the Council of the Nation. However, this provision does not apply to voluntary waivers, which are covered by Article 124. This distinction was exemplified in the 2019 cases of MPs Jamal Ould Abbas and Said Berkan, who

voluntarily waived their immunity before the Council of the Nation could rule on the Minister of Justice's request.

Under the 2020 constitutional amendment, the authority to rule on the lifting of parliamentary immunity was transferred from the parliamentary chambers to the Constitutional Court. This raises procedural questions regarding the role of the Court in cases where an MP refuses to voluntarily waive immunity.

2.2 Case of Rejection of Voluntary Waiver of Procedural Immunity:

The 2020 Constitutional Amendment introduced a key reform concerning the procedures for lifting parliamentary immunity in cases where an MP refuses to voluntarily renounce it.

Accordingly, Article 130 of the Constitution stipulates that parliamentary immunity may only be lifted by a decision of the Constitutional Court, following a request submitted by the Minister of Justice, who is the designated authority for initiating such proceedings.

Additionally, in cases of flagrante delicto (offenses committed in the act), Article 191 outlines the specific procedures for lifting immunity.

To clarify these provisions, it is essential to analyze both standard cases of immunity revocation as well as cases involving flagrante delicto offenses.

2.2.1 The Role of the Constitutional Court in Lifting Procedural Immunity:

Before the 2020 Constitution, the authority to lift parliamentary immunity was held by the Bureau of the People's National Assembly or the Council of the Nation, depending on whether the MP was accused of a felony or misdemeanor, as stipulated in Article 127 of the 2016 Constitution. The purpose of parliamentary immunity was not to shield MPs from prosecution but to ensure the proper functioning of parliament and protect parliamentary duties.

Under Article 125 of the internal regulations of the Council of the Nation, the procedure for lifting immunity required the Minister of Justice to submit a request to the Bureau of the Council, seeking authorization to initiate legal proceedings for acts classified as felonies or misdemeanors.

The request was then referred to the Committee on Legal and Administrative Affairs, Human Rights, Local Governance, Regional Planning, and Territorial Division, which was responsible for preparing a report within a maximum of two months from the date of referral. The committee was required to hear the MP concerned, who had the right to present their defense and be assisted by a fellow MP.

Once the committee completed its report, it was forwarded to the Bureau of the Council of the Nation, which ruled on the matter through a closed session and secret ballot, requiring a majority vote of its members. During this session, the MP had the right to present their defense, assisted by a fellow MP, while the committee's report was reviewed.

Additionally, the internal regulations mandated that the final decision on lifting immunity be issued within three months from the date of submission of the request.

The internal regulations of the Tunisian House of Representatives (Assembly of the People's Representatives (Tunisia), 2023), Article 24 and the subsequent provisions outline the procedures for lifting parliamentary immunity, which primarily include:

- Request to lift immunity must be submitted by the judicial authority, accompanied by supporting evidence and legal grounds justifying the need for criminal proceedings against the MP, and addressed to the President of the House of Representatives.
- The President or one of their deputies must immediately refer the request to the Immunity Committee, which is responsible for examining the request and hearing the MP concerned. The MP may be represented by a fellow colleague or a lawyer to present their defense regarding the request.

- The committee must prepare a report within fifteen (15) days from the date of referral, after which it is forwarded to the Bureau of the House, which must submit it to the plenary session within fifteen (15) days.
- Notably, Article 25 of the internal regulations establishes the confidentiality of the Immunity Committee's proceedings. The MP concerned is only permitted to attend the committee's sessions to provide statements, respond to questions posed by the committee, or during the designated hearing period.
- Additionally, if the MP in question is a member of the Immunity Committee, they are excluded from the deliberations concerning their case. The same rule applies if a committee member is the complainant in the case.

The 2020 Constitutional Amendment introduced new procedures for lifting parliamentary immunity, transferring authority from parliamentary bodies to the Constitutional Court. Article 130 establishes that if an MP does not voluntarily waive immunity, the matter may be referred to the Court for a decision. Unlike previous procedures requiring authorization, this amendment adopts a notification mechanism, though it does not specify which entities are responsible for initiating the notification.
A review of the internal regulations of the Council of the Nation and Article 98 of the Constitutional Court's procedural rules suggests that the notification is submitted by either the President of the Council of the Nation or the President of the National People's Assembly, depending on the case. Additionally, Article 125 of the Council's regulations states that the Minister of Justice must submit the request when criminal proceedings are initiated against an MP.
Under Article 194 of the 2020 Constitution, the Constitutional Court must rule on the matter within 30 days in a closed session, with decisions made by majority vote. In case of a tie, the President's vote prevails (Article 197). Article 198 further establishes that the Court's rulings are final and binding on all public, administrative, and judicial authorities.
Regarding procedural rules, Article 97 of the Constitutional Court's regulations mandates that the President of the Court convene a meeting upon referral. The President assigns rapporteurs to investigate the case, prepare a report, and draft a proposed ruling. The MP may be summoned for a hearing at the President's discretion before deliberations conclude. The entire process must be completed within 30 days. Article 98 confirms that the final decision is made by a majority vote and must be published in the Official Gazette.
These reforms ensure that the Constitutional Court is the sole authority in deciding on the lifting of immunity, enhancing neutrality and objectivity. Given that more than half of the Court's members possess specialized legal expertise, particularly in constitutional law (Article 126), this system reinforces the Court's competence in handling immunity cases within its jurisdiction.

2.2.2 Cases of Flagrante Delicto (Felony or Misdemeanor):

The constitutional framers, through Article 131 of the 2020 Constitution, addressed the situation in which a Member of Parliament is caught in flagrante delicto for committing a felony or misdemeanor, as defined by Article 41 of the Code of Criminal Procedure (Ordinance No. 66/155, 1966). Under this provision, the competent authorities are granted the power to arrest the MP, with the obligation to immediately notify the Bureau of the People's National Assembly or the Council of the Nation, as applicable.

Furthermore, the second paragraph of Article 130 allows the notified Bureau to request the suspension of legal proceedings and the release of the MP, provided that the procedures for lifting immunity are followed, including referral to the Constitutional Court for a ruling.

In contrast, Article 65 of the Tunisian Constitution stipulates that an MP remains in detention until a decision on lifting procedural immunity is made. Meanwhile, Article 113 of the 2019 Egyptian constitutional amendment eliminated the requirement for prior authorization to initiate

legal proceedings in cases of flagrant offenses, aligning with most legal systems that exclude such offenses from parliamentary immunity.

The primary purpose of parliamentary immunity is to protect legislative functions by preventing undue pressure, coercion, or malicious accusations. However, in cases of flagrant offenses, where the act is undeniably attributed to the MP, immunity would serve as an unjustified shield, contradicting its intended function.

Conclusion:

The ability of Members of Parliament to perform their duties with full independence and without external pressure is essential for the integrity of their parliamentary work. Their ability to express opinions objectively and without fear is guaranteed through substantive parliamentary immunity, which protects them from civil and criminal liability.

Like other comparative constitutional frameworks, Algerian constitutions have enshrined procedural immunity alongside substantive immunity. The purpose of procedural immunity is to establish clear regulations and safeguards to balance an MP's right to exercise their parliamentary functions freely and independently with the principle of equality before the law, especially in cases where those limits are exceeded.

Study Findings:

Based on the findings of this study, the following key conclusions have been reached:

- Most constitutions, including the Algerian Constitution, have established absolute procedural immunity for members of parliamentary functions. However, some constitutions exclude certain offenses, such as defamation, insults, and physical assaults committed during parliamentary activities, thereby recognizing MPs' criminal liability for such actions.
- A written, explicit waiver submitted by an MP constitutes authorization for legal proceedings to be initiated against them.
- Departing from previous Algerian constitutions and most comparative legal systems, the 2020 Constitution transferred the authority to lift parliamentary immunity to the Constitutional Court. This shift enhances objectivity and impartiality in decisions related to parliamentary procedural immunity.
- The adoption of a referral mechanism (notification) instead of prior authorization has led to ambiguity, reducing the effectiveness of the process.
- The temporal scope of procedural parliamentary immunity is now explicitly linked to an MP's parliamentary mandate, making it a temporary barrier to criminal prosecution.
- The Algerian constitutional legislator deviated from the prevailing approach in most constitutions by granting parliamentary immunity in cases of flagrant offenses. Although it allows for the arrest of a member of parliament, it also grants the Bureau of the Council of the Nation or the National People's Assembly, depending on the case, the authority to request the suspension of proceedings and the release of the member, with the implementation of the prescribed procedures for lifting procedural immunity. The same rule applies to acts unrelated to parliamentary duties in cases of non-flagrant offenses committed by a member of parliament.

Study Recommendations:

In light of these conclusions, the following recommendations are proposed:

- The internal regulations of the Council of the Nation and the People's National Assembly should be updated to align with the provisions of the 2020 Constitution concerning procedural parliamentary immunity.

- The Algerian constitutional framers should intervene to clarify and regulate the authorities entitled to refer cases to the Constitutional Court regarding the lifting of parliamentary immunity.
- The voluntary waiver of parliamentary immunity by MPs should be abolished to maintain consistency with the principle that parliamentary immunity is a matter of public order, intended to protect parliamentary functions rather than serve as a personal privilege for MPs.

Sources and References

Alhurra. (2024, 6 1). Retrieved from Alhurra: https//www.alhurra

Ali, K. A. (n.d.). The Effect of Parliamentary Immunity on Criminal Liability: A Comparative Study. *Iraqi University Journal, 37*.

Assembly of the People's Representatives (Tunisia). (2023). *Internal Regulations of the Assembly of the People's Representatives.* Tunis: Official Gazette of Tunisia. Retrieved from https://rb.gy/vf7lcj

Council of the Nation. (2017). *Internal Regulations of the Council of the Nation.* Algiers: Official Gazette Issue: No. 49. Retrieved from http://majliselouma.dz/images/reglement_interieur_2017.pdf

Deboucha, F. (n.d.). Procedures for Lifting Parliamentary Immunity in Algerian Legislation: Between the Ambiguity of Legal Texts and the Parliament's Discretionary Power in Considering Requests. *Bahouth Journal*(52).

Decree No. 20/442. (2020, 12 30). Constitutional Amendment of 2020. *Official Gazette of Algeria*. Algiers: Government of Algeria.

El-Hamdani, M. H. (2021). Criminal Liability of Members of Parliament. *Journal of the Faculty of Law for Legal and Political Sciences, 10*(38).

Government of Iraq. (2005). *Iraqi Constitution of 2005*. Retrieved from Constitute Project: https://www.constituteproject.org/constitution/Iraq_2005?lang=en

Government of Jordan. (2016). *The Jordanian Constitution of 1962 with Amendments up to 2016*. Retrieved from Constitute Project: https://www.constituteproject.org/constitution/Jordan_2016?lang=en

Government of Tunisia. (2022, 8). *Tunisian Constitution of 2022*. Retrieved from Government Bulletin of Tunisia (GBO): http://www.gbo.tn/sites/default/files/2022-08/%D8%A3%D9%85%D8%B1%20%D8%B1%D8%A6%D8%A7%D8%B3%D9%8A%20%D8%B9%D8%AF%D8%AF%20607%20%D9%84%D8%B3%D9%86%D8%A9%202022.pdf

Khalfawi, K. (2021). The Issue of Waiving Parliamentary Immunity in Algerian Legislation. *Journal of Comparative Legal Studies, 7*(2).

Law No. 16/01. (2016, 3 6). Constitutional Amendment of 2016. *Official Gazette of Algeria*. Algiers: Government of Algeria.

Ordinance No. 66/155. (1966, 6 11). The Algerian Code of Criminal Procedure, as Amended and Supplemented. *Official Gazette of Algeria(49)*. Algeria: Government of Algeria.