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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

COMMISSION EUROPEENNE POUR LA DEMOCRATIE PAR LE DROIT
(COMMISSION DE VENISE)

**OVERVIEW OF LEGISLATION OF
SELECTED VENICE COMMISSION MEMBER STATES
IN CONNECTION WITH THE PROCEDURE OF
DISQUALIFICATION FROM OFFICE**

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**APERCU DE LA LEGISLATION
D'ETATS MEMBRES CHOISIS DE LA COMMISSION DE VENISE
RELATIVE A LA PROCEDURE DE
DECHEANCE DU MANDAT**

**Provisional version / version provisoire*

Country	Statutory disqualification in the event of conviction	Procedure before Parliament/appeals
Albania	<p>Yes</p> <p>Article 71 Cst. 2. The mandate of the deputy ends or is invalid, as the case may be: dh. when he is convicted by final court decision for the commission of a crime.</p> <p>According to law Nr. 138/2015, on the integrity of the persons who are elected and exercise public functions (the law on decriminalization), the Central Electoral Commission, in collaboration with the prosecutor's office, proclaims the end of the mandate.</p>	None
Armenia	<p>Yes</p> <p>Article 98 Cst. 1. The powers of a parliamentarian shall cease upon ... entry into legal force of a judgment convicting him to imprisonment.</p>	<p><u>Rules of procedure of the National Assembly</u></p> <p>Article 12. Termination of the Powers of the Deputy 1. The powers of the Deputy terminate if: f) s/he has been sentenced to imprisonment;</p> <p>2. In cases prescribed by Sub-Paragraphs 'c.1', 'd', 'f', 'g', and 'h' of Paragraph 1 of this Article, and on the basis of the relevant documents a protocol on the termination of the powers of the Deputy is drawn up to be signed by the Chairperson of the National Assembly and sent to the Central Electoral Commission within five days.</p>

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Austria	<p>Yes</p> <p>Rules of Procedure Law of 1975</p> <p>§ 2. (1) A Member of the National Council shall lose his/her seat</p> <p>3. if s/he ceases to be eligible after having been elected;</p> <p>Section 45 Criminal Code</p> <p>(1) Whoever is sentenced for a serious criminal offense to imprisonment for at least one year shall lose for a period of five years the capacity to hold public office and attain public electoral rights.</p>	<p>Rules of Procedure Law of 1975</p> <p>§ 2</p> <p>(2) The President shall, when notified of one of the cases defined in (1) 1 and 2 above, so inform the National Council, which shall decide by a simple majority on a motion provided for in Article 141 (1) of the Federal Constitutional Law (B-VG), which decision shall be prepared by the Main Committee.</p> <p>Article 141 of the Constitution</p> <p>(1) The Constitutional Court pronounces upon</p> <p>...</p> <p>c) application by a popular representative body for a loss of seat by one of its members;</p> <p>§ 71 of the Constitutional Court Act 1953</p> <p>(1) The general representative bodies may at any time request the Constitutional Court to declare that a member of the representative body shall lose his/her seat for a reason provided by the law. ...</p> <p>(2) If the right to be elected is lost due to a sentence under penal law, the Constitutional Court shall be bound to the final penal sentence.</p>

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Azerbaijan	<p>Yes</p> <p>Article 89 Cst.</p> <p>I. The deputy of Milli Majlis of the Azerbaijan Republic loses his/her mandate in the following cases:</p> <p>3. on commitment of crime and whenever there is valid verdict of law court;</p>	None
Belgium	<p>Yes</p> <p>Article 31 du Code pénal</p> <p>Art. 31. Tous jugements ou arrêts de condamnation à la réclusion ou détention à perpétuité ou à la réclusion d'une durée égale ou supérieure à dix ans ou à l'emprisonnement d'une durée égale ou supérieure à vingt ans prononceront, contre les condamnés, l'interdiction à perpétuité du droit :</p> <p>1° De remplir des fonctions, emplois ou offices publics;</p> <p>2° (...) d'éligibilité;</p>	None
Brazil	<p>Yes</p> <p>Article 55 Cst.</p> <p>A deputy or senator shall lose his office:</p> <p>...</p> <p>VI – if he is criminally convicted by a final and unappealable sentence.</p>	<p>Article 55 Cst.</p> <p>Paragraph 2. In the cases of items I, II and VI, loss of office shall be declared by the Chamber of Deputies or the Federal Senate, by absolute majority, on the initiative of the respective Directing Board or of a political party represented in the National Congress, full defence being ensured.</p>

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Bulgaria	<p>Yes</p> <p>Article 65 1. Eligible for election to the National Assembly shall be any Bulgarian citizen who... is not serving a prison sentence.</p> <p>Article 72 Cst. 1. A Member's prerogatives shall expire before the expiry of his term of office upon any of the following occurrences: ii. enforcement of a prison sentence for an intentional crime, or of an unsuspended prison sentence;</p>	<p>Rules of organisation and procedure of the National Assembly</p> <p>Article 138 (7) When the criminal prosecution is finalized with a conviction, by which has been imposed the punishment "imprisonment" for a deliberate crime or when the execution of the "imprisonment" is not postponed, the National Assembly shall decide on the ahead of term termination of the mandate of the Member of the National Assembly.</p> <p>Article 12 of the Constitutional Court Act</p> <p>(1) The Constitutional Court shall: ...</p> <p>9. establish the ineligibility for election or incompatibility of a member of the National Assembly with regard of the exercising of other functions;</p>
Canada	<p>Yes</p> <p>Art 31 Constitution Act, 1982</p> <p>31. Disqualification of Senators The Place of a Senator shall become vacant in any of the following Cases:</p> <p>(4) If he is attainted of Treason or convicted of Felony or of any infamous Crime:</p>	<p>Such provision needs a decision by Parliament</p> <p>Cf. the following article: http://www.revparl.ca/english/issue.asp?param=128&art=300, which refers to a judicial function of Parliament (including in the provinces) in such cases. See the interesting conclusions of the article on the possibility of a judicial review.</p>

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Chile	<p>Yes</p> <p>Article 60.7 Cst.</p> <p>Likewise, the deputy or senator who, during his/her term of office, loses any general prerequisite for eligibility or realizes any of the causes of ineligibility referred to in Article 57 shall lose his/her office, without prejudice to the exception contemplated in the second paragraph of Article 59 with regard to Ministers of State.</p> <p>Article 17</p> <p>The status of citizenship is lost: ...</p> <p>2. By an afflictive prison sentence</p> <p>The criminal code (Article 37) defines the afflictive sentence as over 3 years and 1 day.</p> <p>Article 48</p> <p>In order to be elected, representatives must be Chilean citizens with the right to vote, have attained twenty-one (21) years of age, have received secondary education or its equivalent and have resided in the region of the pertinent electoral district for a period of no less than two (2) years prior to the date of the election.</p>	<p>No procedure before Parliament</p> <p>Article 93 Cst.</p> <p>The powers of the Constitutional Tribunal are:</p> <p>14. To decide on the ineligibilities, incompatibilities and grounds for resignation concerning the functions of the parliamentarians; ...</p> <p>In the case of numeral 14, the Tribunal may only hear the matter upon request by the President of the Republic or by no less than ten (10) parliamentarians in office.</p> <p>The Constitutional Court held that once the criminal conviction is in force, the loss of qualification and therefore the loss of the status of MP takes place <i>ipso jure</i>, no decision of the Constitutional Court is required. The Constitutional Court addresses the issue only on request.</p>

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Croatia	<p>Yes</p> <p>Article 10, Act of the Election of Representatives to the Croatian Parliament (available in VOTA)</p> <p>A mandate shall cease to a representative earlier than the period he/she has been elected for;</p> <p>...</p> <p>3. if he/she is by legally valid court sentence sentenced to an unconditional sentence of prison longer than 6 months,</p> <p>....</p>	<p>Standing orders of the Parliament</p> <p>Article 10.</p> <p>The term of office of a deputy shall end:</p> <p>...</p> <p>- if he/she is sentenced to an unconditional prison term exceeding 6 months pursuant to a legally-binding court ruling,</p> <p>When, pursuant to the provisions of law and these Standing Orders, the conditions for the end of a deputy's term of office are fulfilled, the term of office shall end as of the date on which Parliament decides on the end of the term of office.</p> <p>The case-law of the Constitutional Court (decision No. U-III-443/2009) should be interpreted as allowing appeals, first to the administrative court and then to the Constitutional Court.</p>

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Cyprus	<p>No, see the need for a decision of a court</p> <p>Article 71 Cst. The seat of a Representative shall become vacant - ... (c) upon the occurrence of any of the circumstances referred to in paragraph (c) or (d) of Article 64</p> <p>Article 64 A person shall be qualified to be a candidate for election as a Representative if at the time of the election that person - ... (c) has not been, on or after the date of the coming into operation of this Constitution, convicted of an offence involving dishonesty or moral turpitude or is not under any disqualification imposed by a competent court for any electoral offence;</p> <p>A decision of the Supreme Court is needed if the offence involves dishonesty or moral turpitude.</p>	None
Estonia	<p>Yes</p> <p>Article 64.2 Cst. The authority of a member of the Riigikogu shall be prematurely terminated: 2) on a guilty verdict by a court against him or her entering into force</p>	None

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Finland	No	<p>Section 28 Cst.</p> <p>If a person elected as a Representative has been sentenced by an enforceable judgement to imprisonment for a deliberate crime or to a punishment for an electoral offence, the Parliament may inquire whether he or she can be allowed to continue to serve as a Representative. If the offence is such that the accused does not command the trust and respect necessary for the office of a Representative, the Parliament may, after having obtained the opinion of the Constitutional Law Committee, declare the office of the Representative terminated by a decision supported by at least two thirds of the votes cast.</p> <p>No appeal.</p>
France	<p>No</p> <p>Article LO 136 du Code électoral</p> <p>Sera déchu de plein droit de la qualité de membre de l'Assemblée nationale celui dont l'inéligibilité se révélera après la proclamation des résultats et l'expiration du délai pendant lequel elle peut être contestée ou qui, pendant la durée de son mandat, se trouvera dans l'un des cas d'inéligibilité prévus par le présent code.</p> <p>La déchéance est constatée par le Conseil constitutionnel à la requête du bureau de l'Assemblée nationale ou du garde des sceaux, ministre de la Justice, ou, en outre, en cas de condamnation postérieure à l'élection, du ministère public près la juridiction qui a prononcé la condamnation.</p> <p>Article 132-21 of the penal code:</p>	<p>The Bureau of the National Assembly may, amongst other authorities, request the loss of the mandate (see previous column).</p> <p>Decision by the Constitutional Court, no appeal.</p>

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	<p>L'interdiction de tout ou partie des droits civiques, civils et de famille mentionnés à l'article 131-26 ne peut, nonobstant toute disposition contraire, résulter de plein droit d'une condamnation pénale.</p> <p>Article 131-26 L'interdiction des droits civiques, civils et de famille porte sur ... 2° L'éligibilité ; ...</p> <p>L'interdiction des droits civiques, civils et de famille ne peut excéder une durée de dix ans en cas de condamnation pour crime et une durée de cinq ans en cas de condamnation pour délit.</p> <p>La juridiction peut prononcer l'interdiction de tout ou partie de ces droits.</p> <p>L'interdiction du droit de vote ou l'inéligibilité prononcées en application du présent article emportent interdiction ou incapacité d'exercer une fonction publique.</p>	

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Georgia	<p>Yes</p> <p>Article 54.2 Cst.</p> <p>2. The office of a member of the Parliament shall be pre-term terminated in the following cases: ... b. a final judgment of conviction is rendered by a court against him/her;</p>	<p>Article 54 Cst.</p> <ol style="list-style-type: none"> 1. The Parliament shall decide about the issue of the recognition or pre-term termination of the office of a member of the Parliament. The decision of the Parliament may be appealed to the Constitutional Court. 2. The office of a member of the Parliament shall be pre-term terminated in the following cases: ... b. a final judgment of conviction is rendered by a court against him/her;
Germany	<p>Yes (save for exceptions)</p> <p>Article 46 Bundeswahlgesetz</p> <p>(1) A deputy shall lose his or her membership of the Bundestag ... 3. if he or she loses one of the prerequisites for permanent eligibility, See Art. 45 of the Criminal Code</p> <p>(1) A person who has been sentenced for a felony to a term of imprisonment of not less than one year shall, for a period of five years, loses the ability to hold public office and be elected in public elections.</p> <p>(2) The court may deprive a convicted person of the ability indicated in subsection (1) above for a period of from two to</p>	<p>Article 41 Cst.</p> <p>Scrutiny of elections</p> <p>(1) Scrutiny of elections shall be the responsibility of the Bundestag. It shall also decide whether a Member's seat is forfeited.</p> <p>(2) Complaints against such decisions of the Bundestag may be lodged with the Federal Constitutional Court.</p> <p>Article 47 Bundeswahlgesetz</p> <p>(1) A decision on loss of membership under Article 46, Paragraph (1) shall be made ... 3. in the case of No. 3, if eligibility has been lost as a result of a judicial decision, by a resolution of the Council of Senior Members of</p>

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	five years if the law expressly so provides.	the Bundestag, otherwise under the scrutiny procedure. (3) If the Council of Senior Members or the President of the Bundestag decides on the loss of membership, the deputy concerned shall withdraw from the Bundestag as soon as the decision has been taken. The decision shall be taken ex officio without delay. Within two weeks after the decision has been served upon him or her, the deputy concerned may apply for a decision on the loss of membership to be taken by the Bundestag under the scrutiny procedure. Such decision shall be served upon the applicant in accordance with the provisions of the Law on the Serving of Documents in Administrative Procedure.

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Greece	<p>Yes</p> <p>Article 59 of the Penal Code</p> <p>Immediate deprivation of civil rights</p> <p>1. Sentencing to death or life imprisonment automatically implies the permanent deprivation of the civil rights of the convicted person.</p> <p>2. The conviction to an indefinite term of imprisonment in accordance with Article 90 et seq. automatically implies the deprivation of political rights for ten years.</p> <p>Article 55 of the Constitution</p> <p>1. To be elected as Member of Parliament, one must be a Greek citizen, have the legal capacity to vote and have attained the age of twenty-five years on the day of the election.</p> <p>2. A Member of Parliament deprived of any of the above qualifications shall forfeit his parliamentary office ipso jure.</p>	<p>Article 100 of the Constitution</p> <p>1. A Special Highest Court shall be established, the jurisdiction of which shall comprise:</p> <p>....</p> <p>c) Judgment in cases involving the incompatibility or the forfeiture of office by a Member of Parliament, in accordance with article 55 paragraph 2 and article 57.</p>

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Hungary	<p>No</p> <p>Section 61 of the Criminal Code</p> <p>Any person who is sentenced to executable imprisonment for an intentional criminal offense, and is deemed unworthy of the right to participate in public affairs, shall be deprived of these rights.</p> <p>(2) Persons deprived of civil rights:</p> <p>a) shall not have the right to vote and may not participate in any referendum and popular initiative;</p> <p>b) may not hold a public office;</p> <p>c) may not serve in bodies or committees of popular representation, and may not participate in their work;</p>	<p>Act XXXVI of 2012 on the National Assembly</p> <p>Section 88</p> <p>The Member shall be declared disqualified from serving as a Member if he or she, during his or her mandate, has been finally convicted of a criminal offence, except if he or she has been prohibited from participating in public affairs</p> <p>Section 91.3</p> <p>The disqualification specified in Section 88 shall be notified to the Speaker without delay by the court passing the final judgement or the authority passing the final decision. Upon the motion by any Member and after seeking the opinion of the committee on immunity, incompatibility, discipline and mandate control, the National Assembly shall decide within fifteen days on declaring the disqualification.</p> <p>This means that:</p> <p>a MP should be dismissed if (s)he commits</p> <ul style="list-style-type: none"> - a serious crime (crimen, to be punished with more than two years in prison), or - a less serious crime (dolus criminalis), but only if a specific decision is taken (by the judge). <p>No appeal since the Parliament is bound by the judge's decision.</p>

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Iceland	<p>Yes</p> <p>Article 134 Cst.</p> <p>Every national having the right to vote in elections to the Althingi and an unblemished reputation is eligible to be elected to the Althingi...</p> <p>Article 5 of the Law concerning parliamentary elections to the Althing</p> <p>No person is considered to possess full civil rights who has been convicted by a court of law for committing an act that is considered heinous by public opinion unless that person has been granted a restoration of his or her civil rights.</p> <p>A judgment of conviction for a punishable offence does not entail the loss of civil rights unless the defendant in a criminal case had reached the age of 18 when the offence was committed and the resulting sentence is at least four years prison without probation or a sentence of preventive detention for defendants who are committed to psychiatric care.</p>	<p>The Parliament can deprive a member of Parliament of his/her mandate if a sentence intervenes after the election.</p> <p>The Parliament did not find a consensus on the way to proceed in a specific case dating back to 1959. It has to be noted that it had deliberated before the final sentence; the MP was not sentenced in the final instance.</p> <p>While there is no appeal against the decision of Parliament to deprive one of its members of his/her mandate, the following provisions deal with restitution of civil rights (and then of eligibility to be elected):</p> <p>The Icelandic Penal Code No. 19/1940 provides for the restitution of civil rights by regaining an unblemished reputation. Article 84 of the Penal Code stipulates that “when a person is sentenced for the first time for an offence entailing an abridgement of civil rights and the punishment is not in excess of 1 year’s imprisonment he or she shall when 5 years have elapsed from the time when the sentence was completed, become unenforceable due to prescription or was dropped, enjoy all the rights conferred by the restitution of civil rights, providing he or she has not been indicted during this period for an offence punishable by a sentence heavier than a fine”. Article 85 of the Penal Code subsequently provides that “when 2 years of the period specified in the second paragraph of Article 84 have elapsed, and providing that the other conditions laid down there are met, the President may, if the sentenced person has behaved well during this period, grant him or her restitution of civil rights. The President may also grant a person restitution of civil rights when at least 5 years have elapsed after the time when his or her sentence was completed, became unenforceable due to prescription or was dropped, providing that the applicant produces proof, which is</p>

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		considered valid, that his or her behaviour has been good during the period in question. Under special circumstances, restitution of civil rights may be granted although the term of the sentence is as long as is specified in the second paragraph, even though the time that has elapsed is not longer than is required under the first paragraph.”
Ireland	<p>Yes</p> <p>Electoral Act 1992</p> <p>Section 42</p> <p>42.—(1) Subject to subsections (2), where a member of the—</p> <p style="padding-left: 20px;">(a) incurs an incapacity or disability referred to in section 41 , or</p> <p style="text-align: center;">...</p> <p>he shall thereupon cease to be such member and a vacancy shall exist accordingly in the membership of the Dáil.</p> <p>(2) The registrar of the court by which a sentence referred to in section 41 (j) was imposed on a member of the Dáil or was confirmed on appeal shall notify the Chairman of the Dáil of the imposition or confirmation of the sentence as soon as possible after—</p> <p style="padding-left: 20px;">(a) in case no appeal is taken against the conviction or sentence, the expiration of the time limit for taking the appeal,</p> <p style="padding-left: 20px;">(b) in case an appeal is taken against the conviction or sentence and the appeal is disallowed or a sentence mentioned in section 41 (j) is imposed on the appeal, the determination of the appeal,</p>	See previous column, the Dáil is just notified the sentence.

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	<p>and on receipt of such notification by the Chairman of the Dáil a vacancy shall exist in the membership of the Dáil.</p> <p>Section 41(j)</p> <p>A person who – (j) is undergoing a sentence of imprisonment for any term exceeding six months, shall not be eligible for election as a member, ...</p>	
Italy	<p>Yes</p> <p>Article 29 of the Criminal Code</p> <p>A sentence to life imprisonment or to imprisonment for no less than five years shall entail a lifetime ban from public office for the convicted person; sentencing to imprisonment for not less than three years shall entail a five-year ban from public office.</p> <p>According to Article 1 of the Legislative Decree (delegated law) of 31 December 2012, n. 235, persons who have been sentenced to more than two years in prison for specific crimes are not allowed a) to stand as candidates for the election of the Chamber of Deputies and of the Senate of the Republic (“incandidabilità”), and b) to stay in office as members of these two legislative Assemblies of the Italian Republic.</p>	<p>Article 3 of the quoted Legislative Decree provides for an immediate deliberation of the concerned Chamber on the removal from their office of the Senators and of the Deputies who are sentenced according to Article 1.</p> <p>No appeal possible.</p>

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Kazakhstan	<p>Yes</p> <p>Article 52.5.2 Cst.</p> <p>...</p> <p>A deputy of the Parliament shall be deprived of his mandate in cases of:</p> <p>...</p> <p>2) entry into force of conviction against deputy;</p>	None
Latvia	<p>Yes</p> <p>Article 18 of the Rules of Procedure of the Saeima</p> <p>18. (1) A Member who has been convicted of a criminal offence shall be deemed expelled from the Saeima as of the date when the sentence comes into force.</p>	No procedure before Parliament, see previous column.

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Lithuania	No	<p>Article 74 Cst.</p> <p>The President of the Republic, the President and justices of the Constitutional Court, the President and justices of the Supreme Court, the President and judges of the Court of Appeal, as well as any Members of the Seimas, who grossly violate the Constitution or breach their oath, or are found to have committed a crime, may be removed from office or have the mandate of a Member of the Seimas revoked by a 3/5 majority vote of all the Members of the Seimas. This shall be performed according to the procedure for impeachment proceedings, which shall be established by the Statute of the Seimas.</p> <p>According to Article 105 of the Constitution, the Constitutional Court presents conclusions on [...] whether the concrete actions of the Members of the Parliament (Seimas) and state officials against whom an impeachment case has been instituted are in conflict with the Constitution. Article 107 of the Constitution states that the decisions of the Constitutional Court on the issues assigned to its competence by the Constitution shall be final and not subject to appeal.</p>
Malta	<p>Yes</p> <p>Article 55 Cst.</p> <p>(1) The seat of a member of Parliament shall become vacant -- ...; (g) subject to the provisions of subsection (2) of this section, if any circumstances arise that if he were not a member of the House of Representatives, would cause him to be</p>	<p>On the role of the Speaker, see previous column: he or she can extend the time for vacating the seat as long as the sentence is not final.</p>

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	<p>disqualified for election thereto.</p> <p>(2) (a) If circumstances such as are referred to in paragraph (g) of subsection (1) of this section arise because any member of the House of Representatives is under sentence of death or imprisonment, ... or convicted of an offence connected with elections and if it is open to the member to appeal against the decision (either with the leave of a court or other authority or without such leave), he shall forthwith cease to perform his functions as a member of the House but, subject to the provisions of this section, he shall not vacate his seat until the expiration of a period of thirty days thereafter:</p> <p>Provided that the Speaker may from time to time, extend that period for further periods of thirty days to enable the member to pursue an appeal against the decision, so however that extensions of time exceeding in the aggregate one hundred and fifty days shall not be given without the approval, signified by resolution, of the House.</p> <p>(b) If on the determination of any appeal, such circumstances continue to exist and no further appeal is open to the member, or if, by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it ceases to be open to the member to appeal, he shall forthwith vacate his seat.</p> <p>...</p>	

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Mexico	<p>Yes</p> <p>Article 111.5 Cst.</p> <p>Penalties shall be removal from office while the accused is on trial. In the event of acquittal, the accused can resume duties. In the event of guilty verdict, pardon may not be granted to the accused, provided that the crime was perpetrated during his term.</p> <p>Article 46 of the federal penal code provides for the suspension of the political rights from the time the sentence is final to the end of its execution.</p>	None
Moldova (Rep.)	<p>Yes</p> <p>Extract from the VC report, par. 86</p> <p>“In its decision no. 2 of 20 January 2015 on the interpretation of Article 1 paragraph 3 in conjunction with Article 69 and 70 of the Constitution (immunity and termination of mandate of MPs), the Constitutional Court stated that “In case of conviction of a member of the Parliament for crimes committed with intention and/or conviction to prison (imprisonment) by a final and binding court decision, including of the foreign states, his or her mandate cannot be withdrawn but ceases <i>ex officio</i> (by the effect of law)”</p>	None, see previous column.

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Portugal	<p>No</p> <p>Article 160.1 Cst.</p> <p>1. Members of the Assembly of the Republic shall lose their seat in the event that:</p> <p>...</p> <p>d) They are convicted by a court of any of the special crimes for which political officeholders may be held liable, which they commit in the exercise of their functions and for which they are sentenced to such loss, or they are convicted of participating in organisations that are racist or display a fascist ideology.</p>	<p>Article 8 of the Statute governing Members of the Assembly of the Republic</p> <p>Loss of seat</p> <p>1 - Members of the Assembly of the Republic shall lose their seat when:</p> <p>a) They become subject to any of the disqualifications or incompatibilities provided for by law, even when due to facts that arose prior to their election; and the Assembly of the Republic <i>may not reassess facts</i> which have been the object of a judicial ruling that has already transited in rem judicatam or of an earlier decision</p> <p>Rules of Procedure of the Assembly of the Republic</p> <p>Article 3 Loss of seat</p> <p>1 – Loss of seat shall occur: a) In the cases provided for in the Statute of Members</p> <p>...</p> <p>3 - When it has proven knowledge of any of the facts referred to in paragraph (1), the Bureau shall first take note of the prior opinion issued by the competent parliamentary committee, in accordance with the provisions of the Statute of Members, and shall then declare the loss of seat.</p> <p>4 – The Bureau shall notify the interested party of its decision, which shall be published in the <i>Journal of the Assembly of the Republic</i>.</p> <p>5 – The Member of the Assembly of the Republic whose mandate is questioned has the right to be heard and to appeal to the Plenary at any time within the following ten days, and shall remain in office until the Plenary issues a definitive decision by secret ballot. 6 – Any other Member of the Assembly of the Republic also has the right to</p>

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		<p>appeal within the same time limit, by means of a written and duly substantiated request, which shall be published in the <i>Journal</i>. 7 – The Plenary shall decide without prior debate, but the Member of the Assembly of the Republic whose mandate is questioned has the right to speak for a period of not more than fifteen minutes. 8 – Any decision by the Plenary to confirm a declaration of the loss of a seat, or to itself declare such a loss, is subject to appeal to the Constitutional Court under the terms of Article 223(2)(g) of the Constitution and the law governing the organisation, operation and procedure of the Constitutional Court. on by the Assembly itself;</p>
Romania	<p>No, save for exceptions (see Article 67.2 of the penal code) (Articles 66-67 of the penal code)</p> <p>ART. 66 Content of the ancillary penalty of receiving a ban on the exercise of a number of rights (1) The ancillary penalty of a ban on the exercise of a number of rights consists of a ban, for one to five years, on the exercise of one or several of the following rights: a) right to be elected to the ranks of public authorities or any other public office; ... ART. 67 Enforcing the ancillary penalty of a ban on the exercise of certain rights (1) The ancillary penalty of a ban on the exercise of certain rights can be enforced if the main penalty is imprisonment or a fine and the Court finds that, considering the nature and seriousness of the offense, the circumstances of the case and the person of the offender, such penalty is necessary. (2) Enforcing the ancillary penalty of a ban on the exercise</p>	<p>None, the loss of the quality of MP derives from the loss of the electoral rights, Article 7 of the Law no. 96/2006 on the Statute of deputies and senators.</p>

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	of certain rights is mandatory when the law stipulates such penalty for an offense.	
Russia	<p>Yes</p> <p>Article 32.2 Cst</p> <p>3. Citizens found incapable by the court as well as those contained in places of confinement upon the verdict of the court shall have neither the right to elect, nor to be elected.</p> <p>Law on status of the members of the Federation Council and status of the member of the State Duma of the Federal Assembly of the Russian Federation</p> <p>Article 4. Early termination of the powers of the member of the Federation Council and of the deputy of the State Duma.</p> <p>The powers of the member of the Federation Council and of the deputy of the State Duma are terminated before the term (par. 1) if he/she is recognized guilty of a crime by a court decision (subpar. D).</p>	<p>Law on status of the members of the Federation Council and status of the member of the State Duma of the Federal Assembly of the Russian Federation</p> <p>Article 4 par. 4 (Fed. Council) and 5 (State Duma): There should be a decision of the corresponding Chamber (no later than 30 days after the beginning of their session pars. 4 (Fed. Council) and 5.</p>
Serbia	<p>Yes</p> <p>Article 88 of the Law on the Election of Deputies (available in VOTA)</p> <p>(1) An MP's mandate shall terminate before the expiration of the term to which he has been elected in the following cases: ... 3) if he/she has been convicted by a final court decision to</p>	<p>Rules of Procedure of the National Assembly</p> <p>a) Procedure for termination of the MPs' mandates</p> <p>Article 198</p> <p>The Speaker of the National Assembly shall be notified of reasons for the termination of the mandate of an MP before expiry of the period for which he/she was elected.</p>

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	<p>an unconditional prison sentence of at least six months.</p>	<p>An MP shall tender a resignation in writing and submit it to the Speaker of the National Assembly, via the registry office, who shall immediately communicate it to MPs and the competent committee. The resigning MP shall be summoned to a sitting of the competent committee at which his resignation shall be considered.</p> <p>The competent committee shall consider the reasons for the termination of the mandate of the MP before the expiry of the period for which he/she was elected and shall submit a report thereof to the National Assembly, with a proposal that the National Assembly acknowledges the termination of the mandate of the MP.</p> <p>The Speaker of the National Assembly shall notify the state institution responsible of administering elections of MPs of the termination of the mandate of the MP.</p> <p>There does not seem to be any appeal to the Constitutional Court; electoral disputes in the meaning of Article 167.4 Cst. and Article 75ff of the Law on the Constitutional Court do not seem to concern the loss of a mandate.</p>

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Slovakia	<p>Yes</p> <p>Article 81A Cst. A Member's of Parliament mandate terminates</p> <p>...</p> <p>f) on the date of effectiveness of a judgment under which a Member of Parliament was convicted of a wilful criminal offence or under which a Member of Parliament was convicted of a criminal offence and in his or her case the Court did not decide on a probationary suspension of the imprisonment sentence.</p>	<p>Rules of Procedure of the National Council (see http://www.ipex.eu/IPEXL-WEB/parliaments/institution/skrad.do)</p> <p>It appears from § 57.1.g (the mandate and immunity committee debates on the loss of the mandate) that the National Council takes a decision.</p> <p>Article 129 Cst. (1) The Constitutional Court shall decide on a complaint against decision verifying or rejecting verification of the mandate of a Member of Parliament.</p> <p>§§ 71ff of the law on the Constitutional Court provide for appeals against the decision to confirm or reject the mandate of a member of the National Council of the Slovak Republic, but not on the loss of mandate.</p>
Slovenia	No	<p>According to the Deputies Act, Parliament can take away a MP's mandate, if he/she was sentenced to imprisonment for at least six months.</p>

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Spain	<p>Yes</p> <p>Article 6.2 of the Representation of the People Institutional Act (see in VOTA)</p> <p>2. The following are also ineligible:</p> <p>a) Persons sentenced to imprisonment by a final court's decision, for the term of their conviction.</p> <p>b) Persons convicted, even if judgment is not yet final, for rebellion, terrorism or other offences against the State where the judgment has imposed the penalty of forfeiture of eligibility according to criminal law or the penalty of total or specific disqualification or suspension from public office in the terms laid down by criminal law statutes.</p>	<p>Section 21.2 of the Standing Orders of the Congress of Deputies</p> <p>A Member shall be suspended in his or her parliamentary rights, privileges and obligations if a judgment of conviction that is final so decrees, or if the execution of such a judgment entails the impossibility of discharging parliamentary duties.</p> <p>An appeal to the Constitutional Court should be possible.</p>
Sweden	<p>No</p> <p>Instrument of Government, Chapter 4, Article 11.3</p> <p>Members or alternates may be deprived of their mandate in cases other than cases under paragraph two only if they have proved themselves manifestly unfit to hold a mandate by reason of a criminal act. A decision in such a case shall be taken by a court of law.</p>	<p>None</p>

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"the former Yugoslav Republic of Macedonia"	<p>Yes</p> <p>Article 65 Cst.</p> <p>...</p> <p>(2) The mandate of a Representative terminates if he or she is sentenced for a criminal offence for which a prison sentence of at least five years is prescribed. The Representative can have his or her mandate revoked for committing a criminal offence making him or her unfit to perform the office of a Representative, as well as for absence from the Assembly for longer than six months for no justifiable reason. Revocation of the mandate is determined by the Assembly by a two-thirds majority vote of all Representatives.</p>	<p>Article 59 of the Rules of Procedure of the Assembly</p> <p>The notification on a Member of the Assembly sentenced for criminal or other punishable act which makes him/her inappropriate for parliamentary office, shall be sent to the President of the Assembly by the Court having delivered the sentence. The President shall immediately forward such notification to the Committee on Procedural and Mandate and Immunity Related Issues.</p> <p>...</p> <p>Proposal for revoke of mandate of a Member of the Assembly in cases of paragraphs 1 and 2 of this Article, shall be submitted by the Committee on Procedure, Mandate and Immunity Related Issues within 15 days from the day of receiving the notification of the President of the Assembly.</p> <p>At its first consecutive session, the Assembly shall hold a debate upon the proposal for revoking the mandate of a Member of the Assembly submitted by the Committee on Procedure, Mandate and Immunity Related Issues. The debate may be concluded with a decision for revoking the mandate of the Member of the Assembly or with a conclusion that there is no ground for revoking the mandate of the Member of the Assembly.</p> <p>No appeal possible.</p>

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Turkey	<p>Yes</p> <p>Art. 84 Cst.</p> <p>The loss of membership, through a final judicial sentence or deprivation of legal capacity, shall take effect after the final court decision in the matter has been communicated to the plenary of the Turkish Grand National Assembly.</p> <p>An appeal to the Constitutional Court could be envisaged after the exhaustion of all other remedies, cf. Law 6216 on Establishment and Procedure of the Constitutional Court (in CODICES:</p> <p>Article 45 - Right of individual application (1) Every person may apply to the Constitutional Court alleging that the public power has violated any one of his/her fundamental rights and freedoms secured under the Constitution which falls into the scope of the European Convention on Human Rights and supplementary protocols thereto, which Turkey is a party to. (2) All administrative and judicial remedies provided by the law relating to the proceeding, act or negligence which is alleged to have caused violation must be exhausted prior to individual application.</p>	<p>Article</p> <p>Art. 136.2 of the Rules of Procedure of the Grand National Assembly</p> <p>...</p> <p>The membership of a deputy ends when the Plenary is notified of the final court judgment stating that he/she is convicted for an offence hindering him/her to be a member of the Grand National Assembly of Turkey or his/her legal capacity is restricted.</p>

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Ukraine	<p>Yes</p> <p>Art. 81.2 Cst.</p> <p>The authority of a People's Deputy of Ukraine shall terminate prior to the expiration of his or her term in office in the event of:</p> <p>...</p> <p>(2) a guilty verdict against him or her entering into legal force;</p>	None
United Kingdom	<p>Yes</p> <p>Article 173 of the Representation of the People Act</p> <p>173.— Incapacities on conviction of corrupt or illegal practice.</p> <p>(1) ... a person convicted of a corrupt or illegal practice—...</p> <p>(b) if already elected to a seat in the House of Commons or holding any such office, shall vacate the seat or office subject to and in accordance with subsections (4) and (5) below.</p> <p>...</p> <p>(4) Where subsection (1)(b) applies to any person, he shall (subject to subsection (5) below) vacate the seat or office in question at the appropriate time for the purposes of this section, namely—</p> <p>(a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or</p>	None

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	<p>(b) if (at any time within that period) that period is extended—</p> <p>(i) the end of the period as so extended, or</p> <p>(ii) the end of the period of three months beginning with the date of the conviction, whichever is the earlier.</p> <p>(5) If (before the appropriate time mentioned in subsection (4) above) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless—</p> <p>(a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the seat or office at that time), or</p> <p>(b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office shall not be vacated by him).</p>	