

Ensuring Employment Guarantees for Members of Parliament And Senators After their Term of Office: A Comparative Analysis of Uzbekistan's Legal Framework

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Abstract: This article examines the employment guarantees provided to members of the Legislative Chamber and Senate of the Oliy Majlis (Parliament) in Uzbekistan after their term concludes. Drawing on comparative legal analysis, it assesses the legal necessity of such guarantees, contrasting them with legislative frameworks in the United States, Germany, Finland, and Kazakhstan. The article identifies systemic challenges, including reduced parliamentary accountability, fiscal inefficiency, and constitutional conflicts with principles of labor equality. It concludes with legislative reform proposals to realign Uzbekistan's practices with democratic norms and enhance institutional credibility.

Keywords: Parliamentary privileges, employment guarantees, legislative reform, Uzbekistan, constitutional law, comparative law, post-term employment.



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Introduction

In parliamentary democracies, the concept of **parliamentary privilege** refers to a set of legal immunities and rights conferred on members of parliament (MPs) and senators to ensure the independence and integrity of the legislative branch. These privileges often include immunity from criminal prosecution, non-liability for speech and votes, entitlement to pensions, travel and housing allowances, and in some jurisdictions, employment guarantees after the end of a parliamentary term. While such mechanisms are often justified as safeguards for democratic function, their scope and application vary significantly across legal systems.

In Uzbekistan, Article 16 of the Law on the Status of a Deputy of the Legislative Chamber and a Member of the Senate provides that former MPs and senators have the right to return to their previous place of work or be assigned an equivalent position with comparable remuneration. Additionally, Article 168(9) of the Labor Code prohibits the dismissal of their temporary replacements during their parliamentary tenure. While intended to ensure continuity and attract professionals into public service, these provisions raise concerns about accountability, equality of opportunity, and efficient use of public resources.

Unlike parliamentary immunity, which is widely accepted as essential to legislative independence, employment guarantees after public office are far more controversial. In transitional democracies such as Uzbekistan, they may reflect remnants of Soviet-era administrative practices that treated political office as a stable career rather than a temporary public responsibility. This article aims to analyze these guarantees in light of comparative legal practice, constitutional principles, and norms of democratic accountability. It situates the discussion within the broader framework of parliamentary privilege and public expectations of fairness and equality in the post-mandate phase of political careers.

Literature Review

A growing body of scholarship has explored the scope, evolution, and limitations of parliamentary privileges in both established and transitional democracies. Bradley and Ewing define parliamentary privilege as “a necessary shield to enable representatives to perform their functions independently and fearlessly,” but caution against its misuse as a tool for personal protection or economic security¹.

In the context of post-Soviet states, Holmes (2006) and Fish (2005) have noted that excessive parliamentary protections, including job guarantees and immunity, often serve to shield legislators from accountability and foster elite entrenchment². These privileges are frequently seen as a holdover from centralized, authoritarian governance structures where political positions were part of the civil service apparatus.

Jones further observes that long-term employment protections can create a moral hazard, disincentivizing MPs from engaging in productive legislative behavior if their post-office income is assured regardless of performance³. This concern is echoed in OECD reports, which recommend limiting privileges that are not aligned with democratic standards of equality and performance based assessment⁴.

From a comparative perspective, Pelizzo and Stapenhurst argue that most advanced democracies deliberately avoid conferring employment guarantees on MPs after office, not only to reinforce the idea of public service as temporary, but also to encourage political turnover and renewal⁵. Instead, they typically offer transitional assistance (e.g., severance grants, job placement support) rather than guaranteed reemployment or salary continuity.

The theoretical underpinnings of this critique are rooted in liberal democratic theory, which holds that no public servant should receive greater employment protections than ordinary citizens unless clearly justified by the public interest. This principle has been cited in judicial decisions limiting the scope of parliamentary privileges in jurisdictions like Germany, France, and Canada⁶.

Thus, the existing literature points to an emerging consensus: while parliamentary immunity is essential for legislative independence, post-office employment guarantees are increasingly viewed as incompatible with democratic norms of equality, transparency, and public accountability.

¹ A.W. Bradley & K.D. Ewing, *Constitutional and Administrative Law* 330 (15th ed. 2021).

² Stephen Holmes, *The Matador's Cape: America's Reckless Response to Terror* (2006); M. Steven Fish, *Democracy Derailed in Russia: The Failure of Open Politics* 101–105 (2005).

³ Martin Jones, *Parliamentary Accountability in Transitional Democracies* 74 (Cambridge Univ. Press 2019).

⁴ OECD, *Public Integrity in Kazakhstan* – 2018.

⁵ Riccardo Pelizzo & Rick Stapenhurst, *Legislative Oversight and Budgeting: A World Perspective* 156–58 (World Bank 2014).

⁶ See, e.g., *Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court] Oct. 4, 1994, 91 BVerfGE 262 (Ger.)* (holding that privileges must comply with proportionality and equality principles).

Comparative analysis

The question of whether legislators should be entitled to job security after leaving office has been answered differently across jurisdictions. However, in mature democracies, the prevailing trend is to avoid guaranteed reemployment in favor of transitional support mechanisms that promote fairness and preserve the integrity of public service.

In the United States, there are no employment guarantees for former members of Congress. Legislators are treated as ordinary citizens upon leaving office. Although they may receive pensions under the Federal Employees Retirement System (FERS), these are conditioned on years of service and age, not on an entitlement to return to prior jobs⁷. Many pursue careers in lobbying, consulting, academia, or return to law practice. This reflects the strong American constitutional emphasis on equal opportunity and the idea that public office is a temporary public trust, not a permanent profession⁸.

Or in **Germany**, The Members of the Bundestag Act (Abgeordnetengesetz) allows former MPs to receive a transitional allowance (Übergangsgeld) for up to six months, based on the length of parliamentary service. However, there are no legal provisions guaranteeing return to prior employment or job placement in public institutions. This model encourages reentry into the general labor market and reflects the German constitutional principle of Berufsfreiheit (freedom of occupation) under Article 12 of the Basic Law, which applies equally to all citizens.

Moreover, in **Finland**, MPs are entitled to a parliamentary pension scheme if they serve a minimum term, but no legal right exists for reemployment or reinstatement in their previous position⁹. Similarly, in Sweden and Norway, legislators receive modest severance pay and professional reintegration services, yet job security is left to market dynamics. The Nordic democratic model emphasizes rotation in office and guards against political entrenchment, viewing public service as temporary and accountable.

When it comes to **French** MPs (deputés), they do not benefit from reemployment guarantees. As the French Constitutional Council has affirmed, parliamentary privileges must conform to principles of equality and proportionality, particularly regarding the use of public funds.

Canada's Members of Parliament Retiring Allowances Act provides retirement benefits and a Severance Allowance upon defeat or retirement. However, reemployment rights are neither guaranteed nor expected. Ethics and transition guides published by the House of Commons encourage MPs to plan for post-office careers early, reinforcing the civic and non-careerist nature of public office.

As far as Kazakhstan is concerned, until 2010, Kazakhstan offered post-term employment guarantees to former MPs, similar to Uzbekistan. These provisions were abolished during a package of anti-corruption and public service reforms led by recommendations from the OECD. The removal was justified on the basis that such guarantees undermine equality and public trust in government institutions.

Legal-theoretical justification

From a legal-theoretical standpoint, employment guarantees for former legislators raise fundamental tensions between constitutional principles, democratic legitimacy, and fiscal responsibility.

⁷ 5 U.S.C. § 8331 et seq.; see also Congressional research service, retirement benefits for Members of Congress.

⁸ U.S. Const. art. I, § 2; The Federalist No. 57 (J. Madison)

⁹ Parliament of Finland, Members' Benefits and Pension System (2023)

a. Rule of law and equality before the law

The rule of law requires that laws apply equally to all individuals unless differential treatment is objectively justified. Article 18 of Uzbekistan's Constitution enshrines this principle by stating, "All citizens shall have equal rights and freedoms." Employment guarantees for former legislators contradict this equality by granting privileges unavailable to the general population, including civil servants and public employees. As Raz and Fuller have argued, laws that are unequally applied or overly protective of elites erode legal certainty and trust¹⁰.

b. Democratic accountability and public trust

The legitimacy of a democracy rests in part on accountability, which is undermined when political actors are insulated from consequences. Employment guarantees reduce the "cost of exit" from public office, thereby diminishing the incentive to perform effectively while in office. Manin (1997) describes such institutional arrangements as contrary to "responsiveness," a central component of representative democracy¹¹.

Public trust also suffers when elected officials appear to enjoy job security disconnected from public performance. In countries with growing concerns about corruption and state inefficiency, such privileges risk deepening perceptions of elitism and clientelist governance.

c. Proportionality and fiscal prudence

Any privilege granted under constitutional or statutory law must be proportional to the public interest it serves. Employment guarantees are hard to justify on this basis, particularly when alternative mechanisms, like severance allowances or retraining programs, achieve similar objectives without creating long-term fiscal obligations. As public funds are involved, the principle of proportionality, well established in European constitutional jurisprudence, demands strict scrutiny of such benefits.

Policy Recommendations

In light of the comparative analysis and legal-theoretical critique, Uzbekistan has an opportunity to modernize its approach to parliamentary privileges while strengthening democratic institutions. The following recommendations aim to bring the country's legal framework in line with global best practices and constitutional principles.

I. Abolish automatic reemployment rights. Uzbekistan should amend Article 16 of the Law on the Status of a Deputy of the Legislative Chamber and a Member of the Senate to remove the provision guaranteeing reemployment after term expiration. Instead, legislators could be provided transitional allowances similar to those in Germany or France. These would support reintegration without distorting labor market competition or undermining equality.

II. Introduce time-limited transitional assistance. A new statute or amendment should establish fixed-duration severance support, not exceeding six months, with conditions such as proof of job search or retraining. This aligns with international norms and balances support with fiscal responsibility.

III. Institutionalize public consultation on reforms. Any legislative reform should involve open consultation with civil society, including: bar associations, labor unions, legal scholars, former legislators.

IV. Apply reforms prospectively. To avoid retroactivity concerns, changes should apply only to newly elected legislators. This approach ensures fairness while preserving the rule of law.

¹⁰ Joseph Raz, *The Authority of Law* 210–15 (1979); Lon L. Fuller, *The Morality of Law* 39–44 (1964).

¹¹ Bernard Manin, *The Principles of Representative Government* 37–39 (1997)

V. Mandate transparency in post-term outcomes. Parliament should adopt rules requiring the annual publication of anonymized post-term data, including: number of MPs returning to prior employment; types of transitional support used, and time to reemployment.

This would improve public trust, allow policy evaluation, and ensure accountability in the implementation of privileges.

Conclusion

The analysis demonstrates that Uzbekistan's post-term employment guarantees for members of parliament and senators stand in contrast to international democratic practices. While initially conceived as protective mechanisms, these privileges now appear increasingly outdated and constitutionally problematic. They risk fostering elitism, undermining accountability, and fundamental principles of democratic governance.

Comparative legal systems, including those in the United States, Germany, Finland, and France, show that effective legislatures can operate without such guarantees, using transitional assistance mechanisms instead. The legal-theoretical foundation, rooted in the rule of law, proportionality, and equal treatment, strongly favors reform.

By implementing the recommended changes, Uzbekistan can take meaningful steps to professionalize its legislature, align with democratic norms, and enhance public trust in representative institutions. Future research could assess public perception of these reforms and explore their impact on legislative quality and political competition.

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