



## MANDATE AND IMMUNITY OF MPS

---

### MANDATE OF MPS

---

**M**andate is the right of an MP to represent the citizens and in performing the role of an MP, make decisions upon his/her conviction (free mandate).

MPs of the Assembly of Republic of Macedonia are elected for a period of four years on general, direct and free elections by a secret ballot. They are elected every four years, in the last 90 days of the mandate of the previous parliamentary composition or within 60 days from the dissolution of the Assembly.

The mandate of MPs is verified by the Assembly and starts from the day of verification until the day of verification of the mandate of the newly elected MPs, but not longer than 4 years.

MPs' mandate can be extended only in a war or extraordinary situation.

The Assembly verifies the mandate of MPs at the constitutional session upon proposal from the Verification Committee of the Assembly.

The constitutional session of the Assembly is scheduled 20 days after the elections at the latest. If the constitutional session is not convened within the foreseen deadline, MPs assemble themselves and constitute the Assembly on the 21<sup>st</sup> day from the completion of the elections.

When her/his mandate is verified, the MP acquires the rights and obligations specified by the Constitution, law, the Rules of Procedure of the Assembly and other regulations and general acts.

The MP cannot be dismissed from the function, but the mandate can be terminated or revoked prior to the expiry of the time of her/his mandate.

The MP's mandate ends prior to the specified elected mandate: if she/he resigns; if she/he is convicted of crime that is punishable with at least five years of imprisonment; if an incompatibility with the parliamentary function is established; if she/he loses the citizenship of the Republic of Macedonia; if she/he is deprived of working capacity with a valid decision and in case of death.

The MP's mandate can be revoked when she/he is convicted of crime or other act subject to punishment that makes her/him not fit for the role of an MP, as well as for unjustified absence from the Assembly for a period longer than six months.

The proposal to revoke the MP's mandate is submitted by the Committee on Rules of Procedure and Mandate-Immunity matters, based on the notification from the President of the Assembly. In cases when the MP is convicted, the court that pronounced the sentence notifies the President of the Assembly. The proposal of the committee is discussed at the next session of the Assembly, whereby the discussion can end by reaching a decision to revoke the MP's mandate, if that is stated by 2/3 of the total number of MPs.

In case of self-dissolution of the Assembly of Republic of Macedonia, the mandates of the MPs end early. The Assembly is dissolved by a decision of the majority of the total number of MPs.

- MPs are elected for a period of four years
- The MP's mandate can end or be revoked only in the cases and the manner specified by the Constitution, the law and the Rules of Procedure of the Assembly

## IMMUNITY OF MPS

**M**embers of the Assembly of the Republic of Macedonia enjoy immunity from the day of their mandates' verification until the end of mandates.

According to the Constitution, MPs enjoy two types of immunity: non-accountability of the MP (substantive or essential immunity) and inviolability of the MP (procedural immunity). These two types of immunity ensure the freedom of MPs in the performance of their role and the independence of the representative body in the execution of the legislative branch of power.



The non-accountability of an MP refers to the fact that an MP cannot be criminally or otherwise held responsible, or arrested for having stated an opinion, or because of voting at the sessions of the Assembly or its working bodies. In this way, the substantive immunity guarantees the freedom of speech; however, it does not protect the MP from responsibility for any stated opinions outside the sessions of the Assembly or its working bodies. For instance, the MP shall not be held responsible if another MP or citizen is insulted during the parliamentary discussion, but shall be held responsible for any insult made outside of the Assembly.

This type of immunity cannot be revoked and shall be valid after the end of the MP's mandate.

The substantive immunity does not exempt the MP from the obligation to respect the Rules of Procedure of the Assembly. The President of the Assembly has the right to remove the MP from the session, when despite a warning and a removal from the floor, she/he further disrupts the order at the session or uses expressions that ruin the dignity of the Assembly.

The inviolability of an MP (procedural immunity) refers to crimes committed outside of the legislature. This type of immunity does not necessarily mean that criminal proceedings cannot be initiated against the MP, or that the MP cannot be convicted of a crime.

The procedural immunity implies the inability to arrest an MP without approval from the Assembly, unless she/he was caught during the commission of crime that is punishable with at least five years of imprisonment.

In the first case, the competent court submits a request to the President of the Assembly to approve the arrest of an MP. In the second case, the competent authority notifies the President of the Assembly that an MP was arrested because she/he was caught during the commission of a crime which is punishable with at least 5 years of imprisonment. The competent authority notifies the President of the Assembly regarding the MP's arrest even when she/he did not invoke her/his immunity.

The President of the Assembly immediately submits the request for arrest approval, or the notification that the MP is arrested to the Committee on Rules of Procedure and Mandate-Immunity Matters, which is obligated to review the request or the notification and submit a report to the President of the Assembly within two days. The MP for whom the request refers to is notified about the session of the Committee. Based on the Committee's report, the Assembly decides if approval will be given for the MP's arrest within three days at latest.

If the Assembly does not approve the arrest, the MP will be immediately released, even when she/he did not invoke her/his immunity.

- MPs in the Republic of Macedonia enjoy two types of immunity: non-accountability of the MP (substantive or essential immunity) and inviolability of the MP (procedural immunity)
- Substantive immunity guarantees the freedom of speech during the sessions of the Assembly or its working bodies
- Procedural immunity refers to the inability to arrest an MP for crimes committed outside the Assembly
- Substantive immunity is valid after the expiry of the MP's mandate, while the procedural mandate is valid only during the mandate