

Appendix and Table of Contents “Guantánamo Two”: Upholding the Rights of Resettled Former Detainees

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I. Foreign Domestic Law: Legal Rights and Pathways for Repatriation or Resettlement

A. Introduction

Along with the rights established by international law, another important, albeit often overlooked, source of rights for former Guantánamo detainees flows from foreign domestic law; both under the nations-of-origin and receiving nations. While international law is largely aspirational, often lacking meaningful enforcement mechanisms, many countries have codified some, if not all, international human rights law and norms into domestic law. Thus, if available, foreign domestic law, potentially, provides an alternative avenue for recourse for former detainees who find themselves functionally stateless.¹ However, even if a country has incorporated international law into domestic law, many factors influence the availability of foreign domestic law as a source of relief; statutes and court opinions that limit the scope of what are often broad constitutional guarantees, political pressure, public sentiment, government instability, even locating the correct forum and an attorney willing to advocate on the behalf of a former detainee are all impediments restoring the rights for former detainees. Despite these challenges, foreign domestic law represents a realistic means for enforcing generally accepted human rights and at the very least is often the first step required to reach regional or international courts as most of these venues require plaintiffs to exhaust all domestic options prior to petitioning for relief.²

Because the U.S. government which controls the men detained in Guantánamo, including the circumstances of their release, has been opaque with regard to details and circumstances surrounding their release, determining which nation's laws to examine required exploring open-

¹ Yachot, *infra* note 40.

² *Exhaustion of Domestic Remedies*, International Justice Resource Center, <https://ijrcenter.org/exhaustion-of-domestic-remedies/> (last visited Nov. 18, 2022).

source materials to identify former detainees who were resettled to nations other than their country-of-origin. The New York Times Guantánamo docket contains a list of over 700 individuals who were transferred from Guantánamo.³ Of those individuals, over 150 former detainees were transferred by the United States to countries other than their nation-of-origin. Sifting through the names on the list resulted in identifying 20 nations-of-origin and 32 receiving nations common to the former detainees who were not repatriated to their homelands.

The appendix includes a survey of 17 of the 20 nations-of-origin's domestic laws relating to nationality, citizenship, freedom of movement, and the right to return. China and Russia were not included in the survey as the former detainees, Uyghurs and Chechens, from those countries avoided religious and ethnic persecution by not returning.⁴ Additionally, Palestine was excluded from the list due to the difficulty associated with finding domestic law on the topics of nationality and citizenship. Furthermore, the appendix also includes a survey of 20 of the 32 receiving nations' domestic laws codifying various international human rights law and norms. Belgium, Bermuda, Britain, France, Germany, Italy, Ireland, Palau, and Switzerland were excluded from the survey as those nations have attempted to respect the former detainee's human rights while integrating them into society.⁵ Saudi Arabia and Afghanistan's domestic human rights laws are covered under the nation-of-origin survey but, in the case of Afghanistan, many of the former detainees have taken position in the Taliban's new government.⁶ The United Arab

³ Sarah Almukhtar, et. al., *The Guantánamo Docket*, N.Y. Times (Sep. 23, 2022), <https://www.nytimes.com/interactive/2021/us/guantanamo-bay-detainees.html>.

⁴ *Guantanamo Bay detainees free at last: from detention to Bermuda*, The Guardian (Jun. 15, 2009, 1:48 PM), <https://www.theguardian.com/world/2009/jun/15/bermuda-guantanamo-uyghurs-detainees>.

⁵ The Guardian *supra* note 4; Philip Oltermann, *Mother of Guantánamo detainee 'still waiting' for US and German apologies*, The Guardian (Feb. 13, 2022), <https://www.theguardian.com/us-news/2022/feb/13/rabiye-kurnaz-mother-guantanamo-torture-victim-murat-still-waiting-us-apology>; Italy *freed former Guantánamo detainee*, Fox News (Nov. 20, 2014), <https://www.foxnews.com/world/italy-frees-former-guantanamo-detainee>.

⁶ Kelly Laco, *Taliban appoints former Guantánamo Bay detainee released under Obama to leadership post in Afghanistan*, Fox News (Aug. 25, 2021), <https://www.foxnews.com/world/taliban-guantanamo-bay-obama-leadership-afghanistan>; Almukhtar, *see infra* note 3.

Emirates was excluded from the survey as the country inexplicably repatriated the vast majority of former detainees it received.⁷

APPENDIX

II. Survey of Rights under Nation-of-Origin Domestic Law

A. Afghanistan Domestic Law

1. Constitution of Afghanistan:

Article 24. “Liberty is the natural right of human beings. This right has no limits unless affecting other’s freedoms as well as the public interest, which shall be regulated by law. Liberty and human dignity are inviolable. The state shall respect and protect liberty as well as human dignity.”

Article 27. “No one shall be punished with the decision of an authoritative court taken in accordance with the provisions of the law, promulgated prior to the commitment of the offense.”

Article 28. “No Afghan shall be deprived of citizenship or sentenced to domestic or foreign exile.”

Article 37. “The state shall not have the right to inspect personal correspondence and communications, unless authorized by provisions of the law.”

Article 39. “Every Afghan shall have the right to travel and settle in any part of the country, except in areas forbidden by law. Every Afghan shall have the right to travel outside Afghanistan

⁷ Mohamed Ghobari, *UAE sends 12 former Guantanamo detainees to Yemen*, Reuters (Oct. 28, 2021), <https://www.reuters.com/world/uae-sends-12-former-guantanamo-detainees-yemen-lawyer-official-2021-10-28/>.

and return, according to the provisions of the law. The state shall protect the rights of the citizens of Afghanistan outside the country.”

Article 48. “Work is the right of every Afghan.”

Article 57. “The state shall guarantee the rights and liberties of foreign citizens in Afghanistan in accordance with the law.”

Article 58. “To monitor respect for human rights in Afghanistan as well as to foster and protect it, the state shall establish the Independent Human Rights Commission of Afghanistan. Every individual shall complain to this Commission about the violation of personal human rights. The Commission shall refer human rights violations of individuals to legal authorities and assist them in defense of their rights.”⁸

2. Citizenship Law of Afghanistan:

Article 9. “(1) Obtaining citizenship of the [Islamic Emirate of Afghanistan] IEA, deprivation from it or losing it can take place only if it is compatible with the tenets and principals of Islam. (2) A person born from parents holding citizenship of the IEA abroad or within the territory of the IEA is considered to be a citizen of the IEA.”

Article 25. “2. Citizenship can be forfeited after the verdict of an authoritative court.”

Article 31. “Nationality of a person can be forfeited in the following cases: 1. If indicted in treachery to the country and to the nation. 2. Serving the army of a government busy in war with Afghanistan.”

⁸ English original text of the Constitution of 2004 5 (2004) Chapter Two: Fundamental Rights and Duties of Citizens (Afg.).

Article 35. “The Afghan nationality of a person who has lost it and wants to get it restored can be restored after the approval of the Council of Ministers and later by Amirul mo’minin.”⁹

B. Algeria Domestic Law

1. Constitution of Algeria:

Article 36. “Algerian nationality is defined by law. The conditions of acquisition, of retention, of loss and revocation of Algerian nationality are determined by the law.”

Article 41. “Every person is presumed innocent until the establishment of their culpability by a jurisdiction within the framework of an equitable process.”

Article 43. “No one may be held [as] culpable if it is not by virtue of a law duly promulgated prior to the incriminating act.”

Article 47. “All persons have the right to the secrecy of their correspondence and of their private communications in all forms.”

Article 49. “All citizens have the right to freely choose the place of their residency and to circulate freely on the national territory. The right to enter and to leave the national territory is guaranteed to them. Any restriction on these rights may only be ordered for a period determined by a substantiated decision of the judicial authority.”

Article 66. “Work is a right and a duty.”¹⁰

⁹ *Law on Citizenship of the Islamic Emirate of Afghanistan*, (Jun. 24, 2000), <https://www.refworld.org/docid/404c988d4.html>.

¹⁰ English Translation of the French Official Text of the Constitution of 1989, as Amended in 1996 and 2016 and as Further Amended by the Referendum of 1 November 2020 10 (2020) Chapter 1: Of the Fundamental Rights and of the Public Freedoms (Alg.).

2. Citizenship Law of Algeria: [Available version on Refworld is in French and Arabic].¹¹

C. Azerbaijan Domestic Law

1. Constitution of Azerbaijan:

Article 28. “Right to Freedom, III. Anyone who is legally in the territory of the Republic of Azerbaijan can freely move and choose a place of domicile for himself and to travel from the Republic of Azerbaijan. IV. A citizen of the Republic of Azerbaijan has the right to come back to his or her country unhampered.”

Article 35. “Right to Work. II. Everyone, depending on working skills, has the right to freely choose the activity, profession, position and area of employment.”

Article 44. “I. Everyone has the right to preserve one's national identity.”

Article 52. “Right to Citizenship. A person having a political and legal relationship to the Republic of Azerbaijan as well as mutual rights and obligations is a citizen of Azerbaijan. A person born on the territory of the Republic of Azerbaijan is a citizen of Azerbaijan. A person whose one parent is a citizen of the Republic of Azerbaijan is a citizen of Azerbaijan.”

Article 53. “Guarantee of the Citizenship Right. I. A citizen of the Republic of Azerbaijan cannot be deprived of his or her citizenship of the Republic of Azerbaijan (except for statutory cases of its loss). II. A citizen of the Republic of Azerbaijan can under no circumstances be expelled from the Republic of Azerbaijan or extradited to a foreign state. III. The Republic of

¹¹ *Algérie: Code de la nationalite Algeriennne*, (2007), <https://www.refworld.org/docid/5943b5c94.html>.

Azerbaijan guarantees the legal defense and protection of citizens of the Republic of Azerbaijan who reside temporarily or permanently abroad.”¹²

2. Citizenship Law of Azerbaijan:

Article 1. “A person born in the territory of the Azerbaijan Republic, or of a citizen of the Azerbaijan Republic shall become a citizen of the Azerbaijan Republic. A person one of whose parents is a citizen of the Azerbaijan Republic shall become a citizen of the Azerbaijan Republic.”

Article 2. “[A] citizen of the Azerbaijan Republic may never be deprived of citizenship of the Azerbaijan Republic.”

Article 8. “Residence by a citizen of the Azerbaijan Republic in a foreign state shall not by itself result in the loss of citizenship of the Azerbaijan Republic.”

Article 18. “The following shall be grounds for loss of citizenship of the Republic of Azerbaijan by taking into account the provisions of the Convention on the reduction of statelessness of 30 August 1961: . . . 3) if a behavior of a citizen of the Republic of Azerbaijan causes serious damage to a state security”

Article 15. “A person who has been previously a citizen of the Azerbaijan Republic, or whose citizenship has been terminated, may have his/her Azeri citizenship restored through application”

¹² English Text of the Constitution of 1995 as Amended to the Referendum of 26 September 2016 [5] (1997) Chapter III: Principal Human Rights and Civil Liberties (Azer.).

Article 26. “International Treaties of the Azerbaijan Republic shall apply in the cases of conflict between this Law and International Treaties of the Azerbaijan Republic.”¹³

D. Canada Domestic Law

1. Constitution of Canada:

Article 6. “(1) Every citizen of Canada has the right to enter, remain in and leave Canada.
(2) Every citizen of Canada and every person who has the status of a permanent resident of Canada has the right (a) to move to and take up residence in any province; and to pursue the gaining of a livelihood in any province.”

Article 24. “(1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the court considers appropriate and just in the circumstances.”¹⁴

2. Citizenship Law of Canada:

Article 3a,d. “A person born in Canada is a citizen.”

Article 7. “A person who is a citizen shall not cease to be a citizen except [as provided]: . . . the Minister may revoke a person’s citizenship or renunciation of citizenship if the Minister is satisfied on a balance of probabilities that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances.”¹⁵

¹³ *Azerbaijan: Law of 1998 on Citizenship of the Azerbaijan Republic*, (Sep. 30, 1998), <https://www.refworld.org/docid/3ae6b52717.html>.

¹⁴ English texts of the Constitution Act of 1867 and the Constitution Act of 1982, as amended to the Fair Representation Act of 16 December 2011, in a consolidation of 1 January 2013. 53 (1867) Part I: Canadian Charter of Rights and Freedoms (Can.).

¹⁵ *Canada: C-29 Citizenship Act*, (Jul. 12, 2019), <https://www.refworld.org/docid/6098e9104.html>.

E. Egypt Domestic Law

1. Constitution of Egypt:

Article 62. “Freedom of movement, residence and emigration shall be guaranteed. No citizen may be expelled from the State territory or prevented from returning thereto. No citizen may be prevented from leaving the State territory, placed under house arrest or prevented from residing in a certain place except by a reasoned judicial order for a specific duration of time and in the cases as defined by the Law.”

Article 63. “All forms and types of arbitrary forced displacement of citizens shall be prohibited and violation of which is a criminal offence that is not subject to any statute of limitations.”

Article 88. “The State shall safeguard the interests of Egyptians residing abroad, protect them and protect their rights and freedoms, enable them to perform their public duties towards the State and society, and encourage their contribution to the development of the nation.”

Article 91. “Extradition of political refugees is prohibited.”

Article 92. “Rights in person and freedoms of citizens may not be suspended or reduced.”

Article 93. “The State shall be bound by the international human rights agreements, covenants and conventions ratified by Egypt, and which shall have the force of law after publication in accordance with the prescribed conditions.”¹⁶

¹⁶ English Text of the Constitution of 2014, Which Includes the Amendments Adopted at the Referendum of 20-22 April 2019. There Are a Few Differences between the Translation of Amendments in English and the Consolidated Text. This Concerns the Numbering of Articles or Structure. 29 (2014) Part III: Public Rights, Freedoms & Duties (Egypt).

2. Citizenship Law of Egypt:

Article 2. “Shall be considered Egyptians: 1. Those who were born of Egyptian fathers. 2. Those who were born in Egypt of an Egyptian mother, and a father whose nationality is unknown or who is stateless. 3. Those who were born in Egypt, of an Egyptian mother but their kinship to the father has not been proved legally. 4. Those who were born in Egypt of unknown parents.”

Article 16. “The Ministers Council may issue a decree stripping the Egyptian Nationality of anyone enjoying it, in any of the following cases: 1. If he enters a foreign nationality . . . 2. If he accepts to join military service in a foreign country without a prior license from the Minister of War. 3. If his normal residence is abroad, and a court ruling is issued condemning him in a crime harmful to the State security from abroad . . . 5. If his normal stay is abroad, and he joins a foreign body whose purposes include working for the undermining of the social or economic order of the State, by the use of force or any other illegal means . . .”

Article 18. “The Egyptian nationality may be restituted by a decree of the Minister of Interior . . . after the lapse of five years from withdrawing or forfeiting it. Restoring the Egyptian nationality may also take place by a Presidential decree.”

Article 26. “International treaties and conventions concerning nationality, which were concluded between Egypt and foreign countries, shall be enforced, even if they are contradictory to the provisions of the present law.”¹⁷

¹⁷ *Law No. 26 of 1975 Concerning Egyptian Nationality*, Official Journal No. 22, (May 29, 1975), 29 May 1975, <https://www.refworld.org/docid/3ae6b4e218.html>.

F. Jordan Domestic Law

1. Constitution of Jordan:

Article 9. “(1) No Jordanian may be deported from the territory of the Kingdom. (2) No Jordanian may be prevented from residing at any place or prevented from movement, or be compelled to reside in any specified place, except in the circumstances prescribed by law.”

Article 21. “(1) Political refugees shall not be extradited on account of their political beliefs or for their defense of liberty. (2) Extradition of ordinary criminals shall be regulated by international agreements and laws.”¹⁸

2. Citizenship Law of Jordan:

Article 3. “The following shall be deemed to be Jordanian nationals: (3) Any person whose father holds Jordanian nationality; (4) Any person born in the Hashemite Kingdom of Jordan of a mother holding Jordanian nationality and of a father of unknown nationality or of a Stateless father or whose filiation is not established; (5) Any person born in the Hashemite Kingdom of Jordan of unknow parents”

Article 18. “(1) Any person who enters the military service of a foreign State without the prior permission or leave of the Jordanian Council of Ministers and refuses to leave the same when so directed by the Government of the Hashemite Kingdom of Jordan shall lose his nationality. (2) The Council of Ministers may, with the approval of his Majesty, declare that a Jordanian has lost Jordanian nationality if: (a) He enters the civil service of a foreign state . . . (b)

¹⁸ English Translation of the Arabic Original Text of the Constitution of 1952 as Amended to the Amendments Promulgated by King Abdullah on 4 May 2016 1 (1952) Chapter 2: Rights and Duties of Jordanians (Jordan).

He enters the service of an enemy State; (c) He commits or attempts to commit an act deemed to endanger the peace and security of the State.”¹⁹

G. Libya Domestic Law

1. Constitution of Libya:

Article 10. “The State shall guarantee the right of asylum by virtue of the law. The extradition of political refugees shall be prohibited.”²⁰

2. Citizenship Law of Libya:

Section (2). A person is a Libyan, if: “He/she [is] born in Libya.”

Section (5). “Loss [of] the Libyan nationality whoever acquired a foreign nationality without the approval of the General Popular Committee for the General Security.”

Section (14). “Withdrawal of the nationality is based on a justified decision that [is] issued by the Coordinator of the Popular Committee for the General Security and the decision would cancel all the rights and duties [that] resulted from acquiring the nationality.”²¹

H. Morocco Domestic Law

1. Constitution of Morocco:

Article 23. “Arbitrary or secret detention and forced disappearance are crimes of the greatest gravity. They expose their authors to the most severe sanctions.”

¹⁹ *Law No. 6 of 1954 on Nationality (last amended 1987)*, (Jan. 1, 1954), <https://www.refworld.org/docid/3ae6b4ea13.html>.

²⁰ English translation of the Arabic consolidated text of the Charter of 3 August 2011 as amended to Constitutional Amendment No. 8 of 6 August 2014. 3 (2011) Part Two: Rights and Public Freedoms (Libya).

²¹ *Law Number (24) for 2010/1378 On The Libyan Nationality*, (May 28, 2010), <https://www.refworld.org/docid/4e2d8bf52.html>.

Article 24. “The freedom to circulate and establish oneself on the national territory, to leave it and to return, in accordance with the law, is guaranteed to all.”²²

2. Citizenship Law of Morocco: [Available version on Refworld is in French].²³

I. Pakistan Domestic Law

1. Constitution of Pakistan:

Article 8. “(1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void. (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.”

Article 15. “Every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof.”²⁴

2. Citizenship Law of Pakistan:

Article 4. “Citizenship by birth. — Every person born in Pakistan after the commencement of this Act shall be a citizen of Pakistan by birth”

Article 16. “Deprivation of citizenship. — (1) a citizen of Pakistan shall cease to be a citizen of Pakistan if he is deprived of that citizenship by an order . . . the Federal Government

²² English translation of the French original text of the Constitution promulgated 29 July 2011 9 (2011) Title II: Fundamental Freedoms and Rights (Morocco).

²³ *Maroc: Code de la nationalité marocaine (2011)* [Morocco], Dahir n. 1-58-250 du 21 safar 1378, (Sep. 6, 1958), <https://www.refworld.org/docid/501fc9822.html>.

²⁴ English consolidated text of the Constitution of 1973 as amended by the Twenty-fifth Amendment Act promulgated 31 May 2018. 6 (1973) Chapter 1: Fundamental Rights (Pak.).

may . . . by order deprive any citizen of Pakistan of his citizenship if it is satisfied that he has been ordinarily a resident in a country outside Pakistan for a continuous period of seven years . . . and during that period has . . . [not] registered annually in the prescribed manner at a Pakistan Consulate or Mission or in a country where is no Pakistan Consulate or Mission . . . The Federal government shall not make an order depriving a person of citizenship . . . unless it is satisfied that it is in the public interest . . . Before making an order . . . the Federal Government shall give . . . notice in writing informing him of the grounds . . . and calling upon him to show why it should not be made.”²⁵

J. Saudi Arabia Domestic Law

1. Constitution of Saudi Arabia:

Article 35. “The Law shall specify rules pertaining to Saudi Arabian nationality.”

Article 42. “The State shall grant the right of political asylum provided it is in the public interest. International agreements and laws shall define rules and procedures for the extradition of common criminals.”²⁶

K. Syria Domestic Law

1. Constitution of Syria:

Article 38. “1. A citizen may not be deported from the homeland or denied re-entry to it. 2. No citizen may be extradited to any foreign entity. 3. Every citizen has the right to move within the state’s territory unless forbidden to do so by a judicial sentence or in implementation of public health and safety laws.”

²⁵ *Pakistan Citizenship Act, 1951*, (Apr. 13, 1951), <https://www.refworld.org/docid/3ae6b4ffa.html>.

²⁶ English text of the Basic Law of 1992 [5] (1992) Part V: Rights and Duties (Saudi Arabia).

Article 48. “Syrian citizenship is regulated by law.”

Article 53. “Any violation of personal freedom or of the sanctity of personal life or of any other public rights or liberties secured by the constitution is considered a crime that shall be punished by law.”²⁷

2. Citizenship Law of Syria:

Article 3. “The following shall be considered as Syrian Arabs ipso facto: A. Anyone born insider or outside the country to a Syrian Arab father; B. Anyone born in the country to a Syrian Arab mother and whose legal family relationship to his father has not been established; C. Anyone born in the country to unknown parents or to parents of unknown nationality or without one . . .”

Article 21. “A citizen may be deprived of the nationality by a decree upon proposal by the Minister stating full reasons thereof in any one of the following cases: A. If the person has . . . acquired a foreign nationality. B. If the person concerned has, of his own free will, joined the military service of a foreign state without prior authorization from the Minister of Defense . . . D. If the person has engaged in any activity or work for a country which is in a state of war with [] Syria . . . G. If the person has left the country indefinitely for settling in a non-Arab country and has been away for more than three years, and has been notified to return but failed to respond or provided unconvincing reasons, within three months of receiving notification”

²⁷ English Translation of the Syrian Constitution Modifications – 15/02/2012 | 19 CC BY Qordoba Translation (Syria).

Article 24. “Nationality may be restituted to a person who has been deprived thereof, in accordance with a decree, based upon a justified proposal by the Minister”²⁸

L. Tajikistan Domestic Law

1. Constitution of Tajikistan:

Article 15. “A person who was a citizen of the Republic of Tajikistan on the day of adoption of the Constitution shall be the citizen of the Republic of Tajikistan . . . The procedure of acquiring and termination of citizenship of the Republic of Tajikistan shall be governed by the constitutional law.”

Article 16. “A citizen of Tajikistan outside the country borders is under the protection of the State . . . Foreign citizens and stateless persons shall enjoy the established rights and freedoms and have the duties and responsibility equal to citizens of Tajikistan except in cases provided by law. Tajikistan may extend political asylum to foreign citizens who have become victims of violation of the rights of man.”

Article 19. “Everyone is guaranteed judicial protection. Everyone has the right to demand that his case be considered by a competent, independent, and impartial court established in accordance with law.”

Article 24. “A citizen has the right to free movement and choice of place of residence, to leave the borders of the Republic, and to return to it.”²⁹

²⁸ *Legislative Decree 276 - Nationality Law*, Legislative Decree 276, (Nov. 24, 1969), <https://www.refworld.org/docid/4d81e7b12.html>.

²⁹ English Text of the Constitution of 1994 as Amended by the Referendum of 22 May 2016. This Version Doesn't Include the Transitional Provisions. [3] (1994) Chapter 2: Rights, Freedoms, [and] Basic Duties of Man and Citizen (Taj.).

2. Citizenship Law of Tajikistan:

Article 4. “Nationality of the Republic of Tajikistan is based on the following principles: Right of each person to nationality; Equal rights of nations regardless of grounds of acquisition of nationality; Support to prevent statelessness; Retention of nationality of the Republic of Tajikistan irrespective of the place of residence, marriage and dissolution of marriage.”

Article 6. “The Republic of Tajikistan encourages the acquisition of nationality of the Republic of Tajikistan by stateless persons and does not prevent them from acquisition of citizenship of another state.”

Article 12. “Nationality of the Republic of Tajikistan shall be acquired on the following grounds: by birth; by naturalization; by restoration of nationality; by choice of a nationality of the Republic of Tajikistan in case of change of the State border of the Republic of Tajikistan.”

Article 23. “1. A national of the Republic of Tajikistan who has entered military service, service in security agencies, judicial authorities, law enforcement agencies or other bodies of the public authority of a foreign state, shall lose nationality of the Republic of Tajikistan, unless international treaties of Tajikistan provide otherwise”

Article 41. “Decision by the relevant bodies and actions of officials responsible for unjustified refusal to accept applications on matters of nationality . . . implementation of the decisions on matters of nationality of the Republic of Tajikistan can be appealed to the higher-level authority or to a court.”³⁰

³⁰ Tajikistan: Constitutional Law of the Republic of Tajikistan on Nationality of the Republic of Tajikistan, (Aug. 8, 2015), <https://www.refworld.org/docid/3ae6b5823.html>.

M. Tunisia Domestic Law

1. Constitution of Tunisia:

Article 26. “The freedom of the individual is guaranteed.” *Article 30.* “Every citizen has the freedom to choose his/her place of residence and the freedom of movement within the territory as well as the right to leave it.”

Article 31. “No citizen may be deprived of his/her Tunisian nationality, nor be banished, extradited, or prevented from returning to his/her country.”

Article 55. “No restriction may be provided to the rights and freedoms guaranteed by this Constitution except by virtue of a law and to meet the demands of a democratic regime and with a view to safeguarding the rights of others or to meet the imperatives of the public safety, of the national defense or of the public health. These restrictions must not infringe the substance of the rights and freedoms guaranteed by this Constitution, and they must be justified by their objectives and proportionate to their justifications.”³¹

N. Turkey Domestic Law

1. Constitution of Turkey:

Article 12. “Everyone possesses inherent fundamental rights and freedoms, which are inviolable and inalienable.”

Article 13. “Fundamental rights and freedoms may be restricted only by law and in conformity with the reasons mentioned in the relevant articles of the Constitution without infringing upon their essence. These restrictions shall not be contrary to the letter and spirit of

³¹ Maria del Carmen Gress, trans., Constitution of the Republic of Tunisia, 2022 (HeinOnline World Constitutions Illustrated library 2022).

the Constitution and the requirements of the democratic order of the society and the secular republic and the principle of proportionality.”

Article 23. “Everyone has the freedom of residence and movement . . . Freedom of movement may be restricted by law for the purpose of investigation and prosecution of an offence, and prevention of crimes. A citizen’s freedom to leave the country may be restricted only by the decision of a judge based on a criminal investigation or prosecution. Citizens shall not be deported, or deprived of their right of entry into the homeland.”

Article 36. “Everyone has the right of litigation either as plaintiff or defendant and the right to a fair trial before the courts through legitimate means or procedures. No court shall refuse to hear a case within its jurisdiction.”

Article 38. “No one shall be considered guilty until proven guilty in a court of law . . . No citizen shall be extradited to a foreign country because of an offence, except under obligations resulting from being a party to the International Criminal Court.”

Article 40. “Everyone whose constitutional rights and freedoms have been violated has the right to request prompt access to the competent authorities.”³²

O. Turkmenistan Domestic Law

1. Constitution of Turkmenistan:

Article 10. “Turkmenistan has its own citizenship. The citizenship shall be acquired, retained and lost in accordance with law . . . No one shall be deprived of citizenship or the right

³² English Translation of the Turkish Original Text of the Constitution of 1982 as Amended to Law No. 6771 of 21 January 2017, and as Subsequently Adopted at the Referendum of 16 April 2017 13 (1982) Chapter One: General Provisions (Turk.).

to change citizenship. A citizen of Turkmenistan shall not be extradited to another state or expelled from the limits of Turkmenistan, or restricted in the right to return to the homeland. The citizens of Turkmenistan shall be guaranteed the protection and patronage of the state on the territory of Turkmenistan and beyond its borders.”

Article 11. “Foreign nationals and stateless persons shall enjoy the rights and freedoms, and bear the responsibilities as the citizens of Turkmenistan in accordance with law and international treaties of Turkmenistan. Turkmenistan, in accordance with universally recognized norms of international law and in the manner prescribed by law shall give refuge to foreign citizens and stateless persons.”

Article 25. “Rights and freedoms of a person and citizen in Turkmenistan shall be recognized in accordance with the universally recognized norms of international law and shall be guaranteed by this Constitution and laws.”

Article 26. “No one has the right to restrict the rights and freedoms of individuals, except in accordance with the Constitution and laws.”

Article 39. “Every citizen shall have the right to move freely and choose their place of residence within Turkmenistan.”

Article 60. “Everyone shall be guaranteed judicial protection of honour and dignity, rights and freedoms as stipulated by the Constitution and laws. Everyone shall have the right to appeal

in the court against the decisions and actions of the state bodies, public associations, local self-governments and officials.”³³

P. Uzbekistan Domestic Law

1. Constitution of Uzbekistan:

Article 21. “The grounds and procedure for acquiring and forfeiting citizenship shall be defined by law.”

Article 22. “The Republic of Uzbekistan shall guarantee legal protection to all its citizens both on the territory of the republic and abroad.”

Article 23. “Foreign citizens and stateless persons, during their stay on the territory of the Republic of Uzbekistan, shall be guaranteed the rights and freedoms in accordance with the norms of international law. They shall perform the duties established by the Constitution, laws, and international agreements signed by the Republic of Uzbekistan.”

Article 28. “Any citizen of the Republic of Uzbekistan shall have the right to freedom of movement on the territory of the Republic, as well as free entry to and exit from it, except in the events specified by law.”

Article 35. “Everyone shall have the right, both individually and collectively, to submit applications and proposals, and to lodge complaints with competent state bodies, institutions and public representatives.”

³³ English Translation of the Turkmenistan Original Text of the Constitution of 1992 as Amended to Law No. 6771 of 21 January 2017, and as Subsequently Adopted at the Referendum of 16 April 2017 13 (1992) Chapter One: General Provisions (Turkm.).

Article 43. “The state shall safeguard the rights and freedoms of citizens proclaimed by the Constitution and laws.”

Article 44. “Everyone shall be entitled to legally defend his rights and freedoms, and shall have the right to appeal any unlawful action of state bodies, officials and public associations.”³⁴

2. Citizenship Law of Uzbekistan:

Article 1. “In the Republic of Uzbekistan, everyone has the right to citizenship. No one may be deprived of citizenship or of the right to change citizenship”

Article 4. “Citizens of the Republic of Uzbekistan are: 1) persons who, by the moment of enactment of the present Law, permanently reside in the Republic of Uzbekistan, irrespective of origin, social and property status, race and ethnicity, sex, education, language, political views, religious beliefs, occupation and who are not citizens of other states and who have expressed desire to become citizens of the Republic of Uzbekistan”

Article 7. “Residence of a citizen of the Republic of Uzbekistan outside the country shall not entail termination of citizenship of the Republic of Uzbekistan.”

Article 8. “The Republic of Uzbekistan, its diplomatic representations and consular institutions as well as their officials shall be obliged to take measures, so that citizens of the Republic of Uzbekistan have an opportunity to fully enjoy all the rights provided for them . . . to

³⁴ English Unofficial Translation of the Text of the Constitution of 1992 as Amended to Law No. ZRU-671 of 8 February 2021 (Bulletin of the Supreme Council of the Republic of Uzbekistan, 1993, No. 1, Art. 4, 1994, No. 1, Art. 5; Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2003, No. 3-4, Art. 27; Bulletin of Chambers of the Oliy Majlis of the Republic of Uzbekistan, 2007, No. 4, Art. 162; 2008, No. 12, Art. 637, 2011, No. 4, Art. 100; No. 12/1, Art. 343; 2014, No. 4, Art. 85) [2] (1992) Part Two: Basic Human and Civil Rights, Freedoms and Duties (Uzb.).

protect their rights and legitimate interests . . . and, whenever necessary, to take measures for redress of infringed rights of citizens of the Republic of Uzbekistan.”

Article 12. “Citizenship of the Republic of Uzbekistan shall be acquired: 1) by birth . . . 3) on the grounds provided for by international instruments of the Republic of Uzbekistan; 4) on other grounds provided for by the present Law.”

Article 18. “A person, who has been a citizen of the Republic of Uzbekistan in the past, may be reinstated in the citizenship of the Republic of Uzbekistan upon his/her petition in conformity with the requirements of the present Law.”

Article 19. “Citizenship of the Republic of Uzbekistan shall be terminated: . . . 2) in a result of a loss of citizenship of the Republic of Uzbekistan; 3) on the grounds provided for by international instruments of the Republic of Uzbekistan; 4) on other grounds provided for by the present Law.”

Article 21. “Citizenship of the Republic of Uzbekistan may be lost: 1) in a result of joining military service, service into security, police, justice agencies, or other governmental and administrative authorities in a foreign state; 2) where a person permanently residing abroad has not register with a consular institution without good reasons within three years; . . . 4) where a person has caused substantial harm to the interests of society and the state, engaging in activities for the benefit of a foreign state or by the commission of crimes against peace and security”

Article 30. “The President of the Republic of Uzbekistan shall take decisions: . . . 3) on reinstatement in the citizenship of the Republic of Uzbekistan; . . . 5) on a loss of citizenship of the Republic of Uzbekistan.”

Article 44. “Groundless refusal to accept applications on citizenship matters, violation of the terms for consideration of applications and other unlawful acts of the authorized officers violating the procedures for consideration of citizenship cases and the procedures for execution of decisions on citizenship matters may be appealed in the manner established by law to the higher-level authorized officer or the court.”

Article 45. “Where and international instrument of the Republic of Uzbekistan provides for rules other than those contained in the present law, the rules of the international instrument shall be applied.”³⁵

Q. Yemen Domestic Law

1. Constitution of Yemen:

Article 44. “The law shall regulate Yemeni nationality. Any Yemeni shall not be deprived of his nationality. Once Yemeni nationality is acquired it may not be withdrawn except in accordance with the law.”

Article 45. “A Yemeni national may not be extradited to a foreign authority.”

Article 48. “The state shall guarantee to its citizens their personal freedom, preserve their dignity and their security. The law shall define the cases in which citizens freedom may be restricted. Personal freedom cannot be restricted without the decision of a competent court of law.”

³⁵ *Law on Citizenship in the Republic of Uzbekistan (As Amended in 2016)* [Uzbekistan], 28 July 1992, available at: <https://www.refworld.org/docid/3ae6b4d3c.html>.

Article 49. “The right to defend oneself in person or by representation is guaranteed during all periods of investigation and in front of all courts, in accordance with the rule of the law.”

Article 51. “Citizens have the right of recourse to the courts to protect their rights and lawful interests. They also have the right to submit their complaints, criticisms, and suggestions to the various government bodies directly or indirectly.”

Article 57. “Freedom of movement from one place to another within the country is guaranteed for all citizens and may not be restricted except by law and for reasons necessitated by the security and safety of the people. The law shall regulate entry and exit from Yemen. No citizen may be deported or denied return to Yemen.”³⁶

2. Citizenship Law of Yemen:

Article (3). “The following shall enjoy Yemeni Nationality: a) Anyone born to a Yemeni father who enjoys Yemeni Nationality. b) Anyone born in Yemen to a mother of Yemeni Nationality and a father of unknown nationality or without one. c) Anyone born in Yemen to a mother of Yemeni Nationality and to a legally unknown father. d) Anyone born in Yemen to unknown parents”

Article (16). “The Yemeni nationality may be restored, by presidential decision on the recommendation of the Minister, to any one from whom it had be withdrawn”

³⁶ English text of the Constitution of 1991 as amended by the Referendum of 2-20-2001 [6] (1991) Part Two: The Basic Rights and Duties of Citizens (Yemen).

Article (17). “In accordance with the Constitution, no Yemeni may be deprived of the Yemeni Nationality. It may however be withdrawn from those who have acquired it in accordance with the provisions of this Law.”

Article (19). “The Yemeni nationality may be withdrawn from anyone who obtained it by acquisition for any of the following reasons”

Article (20). “The provisions of the two preceding articles shall not apply in the case of persons enjoying Yemeni nationality on the basis of Articles (2, 3, 14, and 15) above.”

Article (31). “The courts shall be in charge of nationality disputes arising from the application of this Law.”³⁷

III. Analysis

IV. Survey of Rights under Receiving Nation Domestic Law

In addition to the rights codified by the former detainees’ nations-of-origin, former detainees also have rights, albeit fewer given their uncertain legal status, under the receiving nations’ domestic law. Using the same methodology described in the introduction, the 150 former detainees transferred to countries other than their nations-of-origin were sent by the United States to 22 receiving nations.³⁸ Of the 22 receiving nations, Italy and Bermuda were excluded from the survey as those countries have gone to great lengths to integrate the former detainees into society and, based on media reports, the former detainees faring reasonably well in those nations.³⁹ While post-release agreements between the United States and host countries

³⁷ *Law No. 6 of 1990 on Yemeni Nationality*, (Aug. 26, 1990), <https://www.refworld.org/docid/3ae6b57b10.html>.

³⁸ Almukhtar, et. al., *supra* note 3.

³⁹ The Guardian, *supra* note 4.

remain shrouded in secrecy, examining the domestic law of receiving nations, at the very least, provides insights into the rights owed to former detainees and potential legal avenues for relief.⁴⁰

A. Albania Domestic Law

1. Constitution of Albania:

Article 4. “2. The Constitution is the highest law in the Republic of Albania.”

Article 5. “The Republic of Albania applies international law that is binding upon it.”

Article 15. “1. The fundamental human rights and freedoms are indivisible, inalienable, and inviolable and stand at the base of the entire juridical order. 2. The organs of public power, in fulfillment of their duties, shall respect the fundamental rights and freedoms, as well as contribute to their realization.”

Article 16. “The fundamental rights and freedoms and the duties contemplated in this Constitution for Albanian citizens are also valid for foreigners and stateless persons in the territory of the Republic of Albania, except for cases when the Constitution specifically attaches the exercise of particular rights and freedoms with Albanian citizenship.”

Article 17. “1. Limitations of the rights and freedoms provided for in this Constitution may be established only by law, in the public interest or for the protection of the rights of others. A limitation shall be in proportion to the situation that has dictated it. 2. These limitations may not infringe the essence of the rights and freedoms and in no case may exceed the limitations provided for in the European Convention on Human Rights.”

⁴⁰ Noa Yachot, *Exclusive: many resettled Guantánamo detainees in legal limbo, analysis shows*, The Guardian (Jan. 9, 2022), <https://www.theguardian.com/us-news/2022/jan/09/guantanamo-resettled-no-legal-status>.

Article 18. “1. All are equal before the law. 2. No one may be unjustly discriminated against for reasons such as gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic condition, education, social status, or parentage. 3. No one may be discriminated against for the reasons mentioned in paragraph 2 without a reasonable and objective justification.”

Article 22. “1. Freedom of expression is guaranteed . . . 3. Prior censorship of means of communication is prohibited”

Article 25. “No one may be subjected to torture, cruel, inhuman or degrading punishment or treatment.”

Article 30. “Everyone is deemed innocent so long as his guilt is not proven by final judicial decision.”

Article 32. “2. No one may be declared guilty on the basis of data collected in an unlawful manner.”

Article 36. “The freedom and secrecy of correspondence or any other means of communication are guaranteed.”

Article 37. “3. No one may be subjected to a personal search outside a criminal proceeding, with the exception of cases of entry into, or exit from, the territory of the state, or to avoid a danger that threatens public security.”

Article 38. “1. Everyone has the right to choose his place of residence and to move freely to any part of the territory of the state. 2. No one may be hindered from leaving the state freely.”

Article 40. “Foreigners have the right of asylum in the Republic of Albania according to law.”

Article 42. “1. The liberty, property, and rights recognized in the Constitution and by law may not be infringed without due process. 2. Everyone, to protect his constitutional and legal rights, freedoms, and interests, or in the case of charges against him, has the right to a fair and public trial, within a reasonable time, by an independent and impartial court specified by law.”

Article 43. “Everyone has the right to appeal a judicial decision to a higher court, except when the Constitution provides otherwise.”

Article 48. Everyone, by himself or together with others, may address requests, complaints or comments to the public organs, which are obliged to answer within the time periods and conditions set by law.”

Article 49. “1. Everyone has the right to earn the means of living by lawful work that he has chosen or accepted himself. He is free to choose his profession, place of work, and his own system of professional qualification”

Article 52. “2. Everyone who is without work involuntarily, and has no other means of support, has the right to assistance under the conditions provided by law.”

Article 122. “2. An international agreement ratified by law has priority over the laws of the country that are incompatible with it. 3. The norms issued by an international organization have priority, in case of conflict, over the law of the country when the direct application of the

norms issued by the organization is expressly contemplated in the agreement ratified by the Republic of Albania for participation therein.”⁴¹

B. Bosnia and Herzegovina Domestic Law

1. Constitution of Bosnia and Herzegovina:

Article 2. “(1) All persons within the territory of the Federation shall enjoy the rights: a) To life; b) To liberty, with arrest and detention authorized by the law; c) To equality before the law; d) To freedom from discrimination based on race, color, sex, language, religion or creed, political or other opinions, and national or social origin; e) To fair criminal proceedings; f) To freedom from torture and cruel or inhuman treatment or punishment; g) To privacy; h) To freedom of movement; i) To asylum . . . l) To fundamental freedoms: . . . freedom of assembly; freedom of association . . . and freedom to work . . . r) To protection of minorities and vulnerable groups”

Article 3. “All refugees and displaced persons have the rights to freely return to their homes of origin.”

5. The Human Rights Court. Article 19. “The competence of the Human Rights Court shall extend to any question concerning a Constitutional or other Legal provision relating to human rights or fundamental freedoms or to any instruments listed in Annex. The Court shall have jurisdiction over cases commenced after 1 January 1991.”

VII. International Relations. Article 3. “The international contracts and other agreements which are in effect concerning BiH and the Federation, and the general regulations of the

⁴¹ 1998 CONSTITUTION OF THE REPUBLIC OF ALBANIA. Text approved by referendum on 22 November 1998, as amended last on 21 April 2008. Translated under the auspices of OSCE-Albania.

international law are the consisting part of the Federation legislature. In case of disagreement of an international contract or agreement with the Federation legislature, the contract or agreement will take precedence.”

Annex Human Rights Instruments to Incorporated into the Federation Constitution. “2. 1948. Universal Declaration of Human Rights. 4. 1950. European Convention for the Protection of Human Rights and Fundamental Freedoms, and the Protocols thereto. 5. Convention relating to the Status of Refugees and the 1996. Protocol thereto. 8. 1961. Convention on the Reduction of Statelessness. 14. 1987. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.”⁴²

C. Bulgaria Domestic Law

1. Constitution of Bulgaria:

Article 4. “(1) The Republic of Bulgaria shall be a State governed by the rule of law. It shall be governed by the Constitution and the laws of the country. (2) The Republic of Bulgaria shall guarantee the life, dignity and rights of the individual and shall create conditions conducive to the free development of the individual and of civil society”

Article 5. “(1) The Constitution shall be the supreme law, and no other law shall contravene it . . . (4) International treaties which have been ratified in accordance with the constitutional procedure, promulgated and having come into force with respect to the Republic of Bulgaria, shall be part of the legislation of the State. They shall have primacy over any conflicting provision of the domestic legislation”

⁴² *Constitution of the Federation of Bosnia and Herzegovina* [Bosnia and Herzegovina], 18 March 1994, <https://www.refworld.org/docid/3ae6b56e4.html>.

Article 6. “(1) All persons are born free and equal in dignity and rights. (2) All citizens shall be equal before the law. There shall be no privileges or restriction of rights on the grounds of race, national or social origin, ethnic self-identity, sex, religion, education, opinion, political affiliation, personal or social status or property state. The term ‘citizens’ refers to all individuals to whom this Constitution applies.”

Article 7. “The State shall be held liable for any damages caused by unlawful acts or actions on the part of its agencies and officials.” *Article 13.* “(1) The practicing of any religion shall be unrestricted”

Article 19. “(2) The State shall establish and guarantee equal legal conditions for economic activity to all citizens and legal entities”

Article 22. “(1) Foreigners . . . may acquire property over land under the conditions ensuing from Bulgaria’s accession to the European Union”

Article 24. “(1) The Republic of Bulgaria shall conduct its foreign policy in accordance with the principles and norms of international law”

Article 26. “(2) Foreigners residing in the Republic of Bulgaria shall be vested with all rights and obligations proceeding from this Constitution, except those rights and duties for which Bulgarian citizenship is required by this Constitution or by another law.”

Article 27. “(2) The Republic of Bulgaria shall grant asylum to foreigners persecuted for their opinions or activity in the defence of internationally recognized rights and freedoms. (3) The conditions and procedure for the granting of asylum shall be established by law.”

Article 29. “(1) No one shall be subjected to torture or to cruel, inhuman or degrading treatment”

Article 32. “(1) The privacy of citizens shall be inviolable. Everyone shall be entitled to protection against any unlawful interference in his private or family affairs and against encroachments on his honour, dignity and reputation. (2) No one shall be followed, photographed, filmed, recorded or subjected to any other similar activity without his knowledge or despite his express disapproval, except when such actions are permitted by law.”

Article 35. “(1) Everyone shall be free to choose a place of residence and shall have the right to freedom of movement in the territory of the country and to leave the country. This right shall be restricted only by virtue of law in the name of national security, public health, and the rights and freedoms of other citizens”

Article 38. “No one shall be persecuted or restricted in his rights because of his views”

Article 44. “(1) All citizens shall be free to associate”

Article 45. “All citizens shall have the right to lodge complaints, proposals and petitions with the state authorities.”

Article 48. “(1) Citizens shall have the right to work . . . (3) Everyone shall be free to choose an occupation and place of work”

Article 52. “(3) The State shall protect the health of all citizens”

Article 56. “Everyone shall have the right to legal defence whenever his rights or legitimate interests are violated or endangered. He shall have the right to be accompanied by legal counsel when appearing before an agency of the State.”

Article 57. “(1) The fundamental civil rights shall be irrevocable”

Article 117. “(1) The judiciary shall protect the rights and legitimate interests of all citizens, legal entities and the State”

Article 120. “(1) The courts shall supervise the legality of the acts and actions of the administrative bodies. (2) Citizens and legal entities shall be free to challenge any administrative act which affects them, except those listed expressly by the laws.”

Article 121. “(1) The courts shall ensure equality and equal opportunities for all the parties in the judicial trial to present their case”

Article 122. “(1) Citizens and legal entities shall have the right to legal counsel at all stages of a trial”

Article 134. “(1) The bar shall be free, independent and autonomous. It shall assist citizens and legal entities in the defence of their rights and legitimate interests”

Article 149. “(1) The Constitutional Court shall: 1. provide binding interpretations of the Constitution”

Article 150. “(3) The Ombudsman may approach the Constitutional Court with a request for declaring as unconstitutional a law which infringes human rights and freedoms.”⁴³

D. Cape Verde Domestic Law

1. Constitution of Cape Verde:

Part I. Title I. Article 3. “2. The State shall be subordinated to the Constitution and based on the democratic legality and shall respect and impose the respect of the law. 3. The laws and other acts of the state, local power and public entities in general shall only be valid if in conformity with the Constitution.”

Part I. Title I. Article 7. “1. The State shall pursue the following fundamental tasks: . . .
b) To guarantee the respect for Human Rights and to ensure the full exercise of the fundamental rights and liberties of all citizens . . . 10 To guarantee the aliens that reside permanently or temporarily in Cape Verde or are on transit in the national territory, a treatment compatible with the international norms of Human Rights and the exercise of rights which are not, constitutionally or by law, reserved to the Capeverdean citizens.”

Part I. Title II. Article 10. “1. The State of Cape Verde shall be guided in international relations by the . . . respect for International Law and Human rights . . . 5. The State of Cape Verde shall render to the international organizations, namely the United Nations Organization and the Organization of African Unity . . . respect for Human Rights and for the fundamental

⁴³ *Constitution of the Republic of Bulgaria* [Bulgaria], 13 July 1991, <https://www.refworld.org/docid/44ae29d74.html>.

freedoms and shall support all efforts of the International Community aimed at guaranteeing the respect for the principles enshrined in the United Nations Charter.”

Part I. Title II. Article 11. “1. General or common international law . . . shall be an integral part of the Capeverdean legal order. 2. The international treaties and agreements . . . shall be in force in the Capeverdean legal order . . . 4. The rules and principles of general or common international law and of conventional international law . . . shall prevail . . . over all legislative and domestic normative acts of an infra-constitutional value.”

Part II. Title I. Article 14. “1. The State shall recognize the rights and liberties enshrined in the Constitution as being inviolable and shall guarantee their protection. 2. Any public authority shall have the duty to respect and guarantee the free exercise of the rights and liberties and the compliance with the constitutional or legal duties.”

Part II. Title I. Article 15. “1. The State and other public entities shall be liable for actions or omissions of their agents, that take place in the exercise of their public functions . . . which, by any means, violate the rights, liberties and guarantees in detriment of the holder of such rights, liberties and guarantees or of third parties . . . 3. Everyone shall have the right to request compensation for the damages caused to him by the violation of his fundamental rights and liberties.”

Part II. Title I. Article 16. “1. The laws and international conventions may establish rights, liberties and guarantees not established in the Constitution. 2. The ambit and the essential content of constitutional norms concerning rights, liberties and guarantees shall not be restrained through interpretation. 3. The constitutional and legal norm concerning fundamental rights shall be interpreted and gaps fill in conformity with the Universal Declaration of Human Rights. 4.

The rights, liberties and guarantees shall be limited by law only when expressly allowed by the constitution”

Part II. Title I. Article 19. “Every citizen shall have the right to request the Supreme Court of Justice, through the amparo appeal, the protection of his constitutionally recognized fundamental rights, liberties and guarantees . . . 2. Every citizen shall have the right to present, individually or collectively, to the public authority and to the representative organs of the people, complaints or claims against acts or omission of the public powers that offend or threaten to offend his rights, liberties and guarantees.”

Part II. Title I. Article 20. “1. Every citizen shall have the right of access to judicial means . . . and shall have the right to obtain . . . the effective protection of his rights or legitimate interests from the courts. 2. Every citizen shall have the right of defense and counsel”

Part II. Title I. Article 23. “1. The aliens and stateless persons who reside or sojourn in the national territory, shall enjoy the same rights, liberties and guarantees and be subject to the same duties as the Capeverdean citizens, with exception of the political rights and the rights and duties reserved, constitutionally or by law, to national citizens”

Part II. Title I. Article 24. “The principles set out under this title shall be applicable to the individual rights, liberties and guarantees, as well as to the fundamental rights of analogous nature established in the Constitution, by law or in international convention.”

Part II. Title I. Article 25. “The rights, liberties, and guarantees shall only be suspended in the case of the state of siege or emergency”

Part II. Title I. Article 26. “2. No one shall be submitted to torture, cruel, degrading or inhuman penalties and treatment”

Part II. Title I. Article 27. “1. The right to freedom shall be inviolable”

Part II. Title I. Article 28. “1. Anyone shall have the right to freedom and security. No one shall be deprived, in part or in whole, of his freedom, save in case of a condemnatory judicial sentence”

Part II. Title I. Article 31. “There shall not be, in any circumstances, penalty depriving of liberty, or security measure of a permanent character or with an unlimited or indefinite duration.”

Part II. Title I. Article 38. “1. The right to personal identity, civil capacity, good name, honor and reputation, to image and intimacy of personal and family life shall be guaranteed. 2. Civil capacity shall only be limited through a judicial decision, in the cases and as provided for by law.”

Part II. Title I. Article 39. “1. Every citizen shall have the right to choose freely his occupation, work or profession . . . except in cases of legal restrictions imposed on account of public interest”

Part II. Title I. Article 50. “1. Every citizen shall have the right to leave and to return freely to the national territory, as well as to emigrate. 2. The restrictions of the rights set out in the preceding paragraph shall only be imposed through judicial decision and shall always have a temporary character.”

Part II. Title I. Article 57. “Every citizen shall have the right to present, in writing, individually or collectively, to the public authorities, petitions, complaints or claims for the protection of his rights or against illegalities or abuse of power”

Part II. Title I. Article 58. “1. Work shall be a right of every citizen”

Part II. Title I. Article 68. “1. Everyone shall have the right to health and the duty to defend and promote it, irrespective of his economic condition”

Part II. Title I. Article 69. “Everyone shall have the right to a dwelling which should have a minimum of dignity”⁴⁴

E. El Salvador Domestic Law

1. Constitution of El Salvador.

Article 2. “Every person has the right to life, to physical and moral integrity, to liberty, to security, to work, to property and possession, and to be protected in the conservation and defense of the same.”

Article 3. “All persons are equal before the law. For the enjoyment of the civil rights, no restrictions may be established that are based on differences of nationality, race, sex or religion”

Article 4. “Every person is free in the Republic . . . No one may subject to servitude or any other condition that undermines their dignity.”

Article 5. “Every person has the freedom to enter, remain and leave the territory of the Republic, except for the limitations established by the law . . . the right to leave the territory of the Republic [may not] be prohibited, except by resolution or sentence of a competent authority issued in accordance with the laws.”

⁴⁴ *Cape Verde: Constitution* [Cape Verde], 1/VII/2010, 3 May 2010, <https://www.refworld.org/docid/3ae6b5bd0.html>.

Article 7. “The inhabitants of El Salvador have the right to associate freely and to meet peacefully and without arms for any licit purpose”

Article 10. “The law cannot authorize any act or contract that implies the loss or irreparable sacrifice of the freedom or the dignity of the person. Neither can [it] authorize agreements where proscription or exile is accorded.”

Article 11. “No person can be deprived of the right to life, to liberty . . . or any other of his rights without previously being heard and defeated in trial in accordance to the laws . . . A person has the right to habeas corpus when any individual or authority illegally or arbitrarily restricts his freedom”

Article 18. Every person has the right to direct their written petitions . . . to the legally established authorities; to have them resolved and to be informed of what was resolved.”

Article 28. “El Salvador concedes asylum to the foreigner who desires to reside in its territory except in cases established by the law and by international law. Any [person] persecuted only for political reasons cannot be included in the cases of exception”

Article 37. “[W]ork is a social function, [it] enjoys the protection of the State . . . The State will employ all of the resources that are within its reach to provide [an] occupation for the worker . . . and to assure him and his family the economic conditions for a dignified existence.”

Article 65. “The health of the inhabitants of the Republic constitutes a public good. The State and the persons are obligated to see to its conservation and restoration”⁴⁵

⁴⁵ English translation of the Spanish original text of the Constitution of El Salvador of 1983 as amended to 2014 1 (1983), <https://heinonline.org/HOL/P?h=hein.cow/zzsv0014&i=44>.

F. Estonia Domestic Law

1. Constitution of Estonia:

Article 3. “The state authority shall be exercised solely pursuant to the Constitution and laws which are in conformity therewith. Generally recognised principles and rules of international law are an inseparable part of the Estonian legal system”

Article 9. “The rights, freedoms and duties of each and every person, as set out in the Constitution, shall be equal for Estonian citizens and for citizens of foreign states and stateless persons in Estonia”

Article 10. “The rights, freedoms and duties set out in this Chapter shall not preclude other rights, freedoms and duties which arise from the spirit of the Constitution or are in accordance therewith, and conform to the principles of human dignity and of a state based on social justice, democracy, and the rule of law.”

Article 11. “Rights and freedoms may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society and shall not distort the nature of the rights and freedoms restricted.”

Article 12. “Everyone is equal before the law. No one shall be discriminated against on the basis of nationality, race, colour, sex, language, origin, religion, political or other opinion, property or social status, or on other grounds”

Article 13. “Everyone has the right to the protection of the state and of the law . . . The law shall protect everyone from the arbitrary exercise of state authority.”

Article 14. “The guarantee of rights and freedoms is the duty of the legislative, executive and judicial powers, and of local governments.”

Article 15. “Everyone whose rights and freedoms are violated has the right of recourse to the courts. Everyone has the right, while his or her case is before the court, to petition for any relevant law, other legislation or procedure to be declared unconstitutional. The courts shall observe the Constitution and shall declare unconstitutional any law, other legislation or procedure which violates the rights and freedoms provided by the Constitution or which is otherwise in conflict with the Constitution.”

Article 17. “No one’s honour or good name shall be defamed.”

Article 18. “No one shall be subjected to torture or to cruel or degrading treatment or punishment”

Article 20. “Everyone has the right to liberty and security of person. No one shall be deprived of his or her liberty except in the cases and pursuant to procedure provided by law”

Article 22. “No one shall be presumed guilty of a criminal offence until a conviction by a court against him or her enters into force”

Article 23. “No one shall be prosecuted or punished again for an act of which he or she has been finally convicted or acquitted pursuant to law.”

Article 25. “Everyone has the right to compensation for moral and material damage caused by the unlawful action of any person.”

Article 26. “Everyone has the right to the inviolability of private and family life. State agencies, local governments, and their officials shall not interfere with the private or family life of any person, except in the cases and pursuant to procedure provided by law to protect health, morals, public order, or the rights and freedoms of others, to combat a criminal offence, or to apprehend a criminal offender.”

Article 28. “Everyone has the right to the protection of health. An Estonian citizen has the right to state assistance in the case of old age, incapacity for work, loss of a provider, or need. The categories and extent of assistance, and the conditions and procedure for the receipt of assistance shall be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law”

Article 29. “An Estonian citizen has the right to freely choose his or her area of activity, profession and place of work. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law”

Article 31. “Estonian citizens have the right to engage in enterprise and to form commercial undertakings and unions. Conditions and procedure for the exercise of this right may be provided by law. Citizens of foreign states and stateless persons who are in Estonia have this right equally with Estonian citizens, unless otherwise provided by law.”

Article 34. “Everyone who is legally in Estonia has the right to freedom of movement and to choice of residence. The right to freedom of movement may be restricted in the cases and pursuant to procedure provided by law to protect the rights and freedoms of others, in the interests of national defence . . . or to ensure the administration of a criminal procedure.”

Article 35. “Everyone has the right to leave Estonia. This right may be restricted in the cases and pursuant to procedure provided by law to ensure the administration of court or pre-trial procedure, or to execute a court judgment.”

Article 46. “Everyone has the right to address state agencies, local governments, and their officials with memoranda and petitions. The procedure for responding shall be provided by law.”

Article 55. “Citizens of foreign states and stateless persons who are in Estonia have a duty to observe the constitutional order of Estonia.”

Article 123. “If laws or other legislation of Estonia are in conflict with international treaties ratified by the Riigikogu, the provisions of the international treaty shall apply.”

Article 146. “Justice shall be administered solely by the courts. The courts shall be independent in their activities and shall administer justice in accordance with the Constitution and the laws.”

Article 152. “In a court proceeding, the court shall not apply any law or other legislation that is in conflict with the Constitution. The Supreme Court shall declare invalid any law or other legislation that is in conflict with the provisions and spirit of the Constitution.”⁴⁶

G. Georgia Domestic Law

1. Constitution of Georgia:

Article 4. “2. The State acknowledges and protects universally recognised human rights and freedoms as eternal and supreme human values. While exercising authority, the people and

⁴⁶ *Constitution of the Republic of Estonia* [Estonia], 29 June 1992, <https://www.refworld.org/docid/3ae6b56a4.html>.

the State shall be bound by these rights and freedoms as directly applicable law. The Constitution shall not deny other universally recognised human rights and freedoms that are not explicitly referred to herein, but that inherently derive from the principles of the Constitution . . . 4. State authority shall be exercised within the ambit of the Constitution and law. The Constitution of Georgia shall be the supreme law of the State . . . 5. The legislation of Georgia shall comply with the universally recognised principles and norms of international law. An international treaty of Georgia shall take precedence over domestic normative acts unless it comes into conflict with the Constitution or the Constitutional Agreement of Georgia.”

Article 9. “1. Human dignity shall be inviolable and shall be protected by the State. 2. Torture, inhuman or degrading treatment, and the use of inhuman or degrading punishment shall be prohibited.”

Article 11. “1. All persons are equal before the law. Any discrimination on the grounds of race, colour, sex, origin, ethnicity, language, religion, political or other views, social affiliation, property or titular status, place of residence, or on any other grounds shall be prohibited”

Article 13. “1. Human liberty shall be protected. 2. The deprivation or other restrictions of liberty shall only be permitted on the basis of a court decision . . . 6. A violation of the requirements of this article shall be punished by law. A person whose liberty has been restricted unlawfully shall have the right to compensation.”

Article 14. “1. Everyone lawfully staying in Georgia shall have the right to move freely within the territory of the country, to choose a place of residence freely and to leave Georgia freely. 2. These rights may only be restricted in accordance with law, for ensuring national

security or public safety, protecting health or administering justice, insofar as is necessary in a democratic society.”

Article 15. “1. Personal and family life shall be inviolable. This right may be restricted only in accordance with law for ensuring national security or public safety, or for protecting the rights of others, insofar as is necessary in a democratic society. 2. Personal space and communication shall be inviolable . . . These rights may be restricted only in accordance with law for ensuring national security or public safety, or for protecting the rights of others, insofar as is necessary in a democratic society, based on a court decision or without a court decision in cases of urgent necessity provided for by law. In cases of urgent necessity, a court shall be notified of the restriction of the right no later than 24 hours after the restriction, and the court shall approve the lawfulness of the restriction no later than 24 hours after the submission of the notification.”

Article 18. “1. Everyone has the right to a fair hearing of his/her case by an administrative body within a reasonable time. 2. Everyone has the right to be familiarised with information about him/her, or other information, or an official document that exists in public institutions in accordance with the procedures established by law, unless this information or document contains commercial or professional secrets, or is acknowledged as a state secret by law or in accordance with the procedures established by law as necessary in a democratic society to ensure national security or public safety or to protect the interests of legal proceedings. 3. The information contained in official records pertaining to an individual's health, finances or other personal matters shall not be made available to anyone without the consent of the individual, except as provided for by law and as is necessary to ensure national security or public safety, or to protect public interests and health or the rights of others. 4. Everyone shall be entitled to full

compensation, through a court, for damage unlawfully inflicted by the bodies of the State, the autonomous republics and local self-governments, or their employees, from state funds, the funds of the autonomous republics or the funds of local self-governments, respectively.”

Article 26. “1. Freedom of labour shall be guaranteed. Everyone has the right to freely choose their employment . . . 4. Freedom of enterprise shall be guaranteed. Monopolistic activities shall be prohibited, except in cases permitted by law”

Article 31. “1. Every person has the right to apply to a court to defend his/her rights. The right to a fair and timely trial shall be ensured. 2. Every person shall be tried only by a court that has jurisdiction over the case. 3. The right to defence shall be guaranteed. Everyone has the right to defend his/her rights before a court in person or through a lawyer, or through a representative in cases defined by law . . . 5. A person shall be presumed innocent until proved guilty, in accordance with the procedures established by law and the court's judgment of conviction that has entered into legal force. 6. No one shall be obliged to prove his/her innocence. The burden of proof shall rest with the prosecution”

Article 33. “1. Citizens of other states and stateless persons living in Georgia shall have rights and obligations equal to those of citizens of Georgia except in cases provided for by the Constitution and law. 2. The State shall be entitled to impose restrictions on the political activities of citizens of other states and stateless persons. 3. Georgia shall grant asylum to citizens of other states and stateless persons in compliance with universally recognised norms of international law, in accordance with the procedures established by law”

Article 34. “1. The fundamental human rights referred to in the Constitution, in terms of their contents, shall also apply to legal persons . . . 3. The restriction of a fundamental human right shall be commensurate with the significance of the legitimate aim that it serves.”

Article 35. “1. Supervision of the protection of human rights within the territory of Georgia shall be exercised by the Public Defender of Georgia . . . 2. Hindering the activities of the Public Defender shall be punishable by law . . . 4. The powers of the Public Defender shall be defined by the organic law.”

Article 60. “4. The Constitutional Court of Georgia shall in accordance with the procedures established by the organic law: a) review the constitutionality of a normative act with respect to the fundamental human rights enshrined in Chapter Two of the Constitution on the basis of a claim submitted by a natural person, a legal person or the Public Defender”⁴⁷

H. Ghana Domestic Law

1. Constitution of Ghana:

Article 1. “(2) The Constitution shall be the supreme law of Ghana and any other law found to be inconsistent with any provision of this Constitution shall, to the extent of the inconsistency, be void.”

Article 2. “(1) A person who alleges that: (a) an enactment or anything contained in or done under the authority of that or any other enactment; or (b) any act or omission of any person;

⁴⁷ English translation of the Georgian text of the Constitution of 1995 as restated by Constitutional Laws Nos. 1324 of 13 October 2017 and 2071 of 23 March 2018. The new text entered into force following the presidential elections of 28 October 2018, the results being certified on 14 November 2018. 3 (2020) Chapter Two: Fundamental Human Rights, <https://heinonline.org/HOL/P?h=hein.cow/zzge0011&i=3>.

is inconsistent with, or is in contravention of a provision of this Constitution, may bring an action in the Supreme Court for a declaration to that effect.”

Article 12. “(1) The fundamental human rights and freedoms enshrined in this chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable by the Courts as provided for in this Constitution. (2) Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.”

Article 14. “(1) Every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except . . . in accordance with procedure permitted by law . . . (2) A person who is arrested, restricted or detained shall be informed immediately, in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to a lawyer of his choice . . . (5) A person who is unlawfully arrested, restricted or detained by any other person shall be entitled to compensation from that other person”

Article 15. “(1) The dignity of all persons shall be inviolable. (2) No person shall, whether or not he is arrested, restricted or retained, be subjected to - (a) torture or other cruel, inhuman or degrading treatment or punishment; (b) any other condition that detracts or is likely to detract from his dignity and worth as a human being. (3) A person who has not been convicted of a criminal offence shall not be treated as a convicted person and shall be kept separately from convicted persons”

Article 17. “(1) All persons shall be equal before the law. (2) A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status. (3) For the purposes of this article, "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are subjected to disabilities or restrictions to which persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description”

Article 21. “(1) All persons shall have the right to (a) freedom of speech and expression, which shall include freedom of the press and other media; (b) freedom of thought, conscience and belief, which shall include academic freedom; (c) freedom to practise any religion and to manifest such practice; (d) freedom of assembly including freedom to take part in processions and demonstrations; (e) freedom of association, which shall include freedom to form or join trade unions or other associations, national or international, for the protection of their interest; (f) information, subject to such qualifications and laws as are necessary in a democratic society; (g) freedom of movement which means the right to move freely in Ghana, the right to leave and to enter Ghana and immunity from expulsion from Ghana . . . (4) Nothing in, or done under the authority of, a law shall be held to be inconsistent with, or in contravention of, this article to the extent that the law in question makes provision- (a) for the imposition of restrictions by order of a court, that are required in the interest of defence, public safety or public order, on the movement or residence within Ghana of any person; or . . . (c) for the imposition of restrictions that are reasonably required in the interest of defence, public safety, public health or the running of essential services, on the movement or residence within Ghana of any person or persons

generally, or any class of persons; or (d) for the imposition of restrictions on the freedom of entry into Ghana, or of movement in Ghana, if a person who is not a citizen of Ghana . . . (5)

Whenever a person, whose freedom of movement has been restricted by the order of a court under paragraph (a) of clause (4) of this article, requests at any time during the period of that restriction not earlier than seven days after the order was made, or three months after he last made such request, as the case may be, his case shall be reviewed by that court. (6) On a review by a court under clause (5) of this article, the court may, subject to the right of appeal from its decision, make such order for the continuation or termination of the restriction as it considers necessary or expedient.”

Article 23. “Administrative bodies and administrative officials shall act fairly and reasonably and comply with the requirements imposed on them by law and persons aggrieved by the exercise of such acts and decisions shall have the right to seek redress before a court or other tribunal.”

Article 24. “(1) Every person has the right to work under satisfactory, safe and healthy conditions”

Article 33. “(1) Where a person alleges that a provision of this Constitution on the fundamental human rights and freedoms has been, or is being or is likely to be contravened in relation to him, then, without prejudice to any other action that is lawfully available, that person may apply to the High Court for redress . . . (3) A person aggrieved by a determination of the High Court may appeal to the Court of Appeal with the right of a further appeal to the Supreme Court . . . (5) The rights, duties, declarations and guarantees relating to the fundamental human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding

others not specifically mentioned which are considered to be inherent in a democracy and intended to secure the freedom and dignity of man.”

Article 125. “(1) Justice emanates from the people and shall be administered in the name of the Republic by the Judiciary which shall be independent and subject only to this Constitution . . . (5) The Judiciary shall have jurisdiction in all matters civil and criminal, including matters relating to this Constitution, and such other jurisdiction as Parliament may, by law, confer on it.”

Article 216. “There shall be established by Act of Parliament within six months after Parliament first meets after the coming into force of this Constitution, a Commission on Human Rights and Administrative Justice”

Article 218. “The functions of the Commission shall be defined and prescribed by Act of Parliament and shall include the duty: (a) to investigate complaints of violations of fundamental rights and freedoms, injustice, corruption, abuse of power and unfair treatment of any person by a public officer in the exercise of his official duties . . . (c) to investigate complaints concerning practices and actions by persons, private enterprises and other institutions where those complaints allege violations of fundamental rights and freedoms under this Constitution. (d) to take appropriate action to call for the remedying, correction and reversal of instances specified in paragraphs (a), (b) and (c) of this clause through such means as are fair, proper and effective, including (i) negotiation and compromise between the parties concerned; (ii) causing the complaint and its finding on it to be reported to the superior of an offending person; (iii) bringing proceedings in a competent Court for a remedy to secure the termination of the offending action or conduct, or the abandonment or alteration of the offending procedures; and (iv) bringing proceedings to restrain the enforcement of such legislation or regulation by challenging its

validity if the offending action or conduct is sought to be justified by subordinate legislation or regulation which is unreasonable or otherwise ultra vires”

Article 219. “(2) The Commissioner shall not investigate . . . a matter involving the relations or dealings between the Government and any other Government or an international organization”⁴⁸

I. Hungary Domestic Law

1. The Fundamental Law of Hungary:

Article Q. “(2) In order to comply with its obligations under international law, Hungary shall ensure that Hungarian law is in conformity with international law. (3) Hungary shall accept the generally recognised rules of international law. Other sources of international law shall become part of the Hungarian legal system by promulgation in laws.”

Article R. “(1) The Fundamental Law shall be the foundation of the legal system of Hungary. (2) The Fundamental Law and the laws shall be binding on everyone”

Freedom and Responsibility. Article I. “(1) The inviolable and inalienable fundamental rights of MAN must be respected. It shall be the primary obligation of the State to protect these rights. (2) Hungary shall recognise the fundamental individual and collective rights of man. (3) The rules for fundamental rights and obligations shall be laid down in an Act. A fundamental right may only be restricted to allow the effective use of another fundamental right or to protect a constitutional value, to the extent absolutely necessary, proportionate to the objective pursued and with full respect for the essential content of that fundamental right. (4) Fundamental rights

⁴⁸ *Constitution of the Republic of Ghana* [Ghana], 7 January 1993, <https://www.refworld.org/docid/3ae6b5850.html>

and obligations which, by their nature, do not only apply to man shall be guaranteed also for legal entities established by an Act.”

Freedom and Responsibility. Article II. “Human dignity shall be inviolable. Every human being shall have the right to life and human dignity”

Freedom and Responsibility. Article III. “(1) No one shall be subject to torture, inhuman or degrading treatment or punishment, or held in servitude”

Freedom and Responsibility. Article IV. “(1) Everyone shall have the right to liberty and security of the person. (2) No one shall be deprived of liberty except for reasons specified in an Act and in accordance with the procedure laid down in an Act . . . (4) Everyone whose liberty has been restricted without a well-founded reason or unlawfully shall have the right to compensation.”

Freedom and Responsibility. Article VI. “(1) Everyone shall have the right to have his or her private and family life, home, communications and good reputation respected”

Freedom and Responsibility. Article XII. “(1) Everyone shall have the right to choose his or her work, and employment freely and to engage in entrepreneurial activities. Everyone shall be obliged to contribute to the enrichment of the community through his or her work, in accordance with his or her abilities and potential. (2) Hungary shall strive to create the conditions that ensure that everyone who is able and willing to work has the opportunity to do so.”

Freedom and Responsibility. Article XIV. “(1) No foreign population shall be settled in Hungary. A foreign national, not including persons who have the right to free movement and residence, may only live in the territory of Hungary under an application individually examined by the Hungarian authorities. The basic rules on the requirements for the submission and

assessment of such applications shall be laid down in a cardinal Act . . . (4) Hungary shall, upon request, grant asylum to non-Hungarian nationals who are persecuted in their country or in the country of their habitual residence for reasons of race, nationality, the membership of a particular social group, religious or political beliefs, or have a well-founded reason to fear direct persecution if they do not receive protection from their country of origin, nor from any other country. A non-Hungarian national shall not be entitled to asylum if he or she arrived in the territory of Hungary through any country where he or she was not persecuted or directly threatened with persecution. (5) The basic rules for granting asylum shall be laid down in a cardinal Act.”

Freedom and Responsibility. Article XV. “(1) Everyone shall be equal before the law. Every human being shall have legal capacity. (2) Hungary shall guarantee fundamental rights to everyone without discrimination and in particular without discrimination on the grounds of race, colour, sex, disability, language, religion, political or other opinion, national or social origin, property, birth or any other status”

Freedom and Responsibility. Article XX. “(1) Everyone shall have the right to physical and mental health”

Freedom and Responsibility. Article XXIV. “(1) Everyone shall have the right to have his or her affairs handled impartially, fairly and within a reasonable time by the authorities. Authorities shall be obliged to state the reasons for their decisions, as provided for by an Act. (2) Everyone shall have the right to compensation for any damage unlawfully caused to him or her by the authorities in the performance of their duties, as provided for by an Act.”

Freedom and Responsibility. Article XXV. “Everyone shall have the right to submit, either individually or jointly with others, written applications, complaints or proposals to any organ exercising public power.”

Freedom and Responsibility. Article XXVII. “(1) Everyone residing lawfully in the territory of Hungary shall have the right to move freely and to choose his or her place of residence freely”

Freedom and Responsibility. Article XXVIII. “(1) Everyone shall have the right to have any charge against him or her, or his or her rights and obligations in any litigation, adjudicated within a reasonable time in a fair and public trial by an independent and impartial court established by an Act. (2) No one shall be considered guilty until his or her criminal liability has been established by the final and binding decision of a court . . . (6) With the exception of extraordinary cases of legal remedy laid down in an Act, no one shall be prosecuted or convicted for a criminal offence for which he or she has already been finally acquitted or convicted in Hungary or, within the scope specified in an international treaty and a legal act of the European Union, in another State, as provided for by an Act. (7) Everyone shall have the right to seek legal remedy against any court, authority or other administrative decision which violates his or her rights or legitimate interests.”

The State. Article 24. “(1) The Constitutional Court shall be the principal organ for the protection of the Fundamental Law. (2) The Constitutional Court: . . . b) shall, at the initiative of a judge, review the conformity with the Fundamental Law of any law applicable in a particular case as a priority but within no more than ninety days; c) shall, on the basis of a constitutional complaint, review the conformity with the Fundamental Law of any law applied in a particular case; d) shall, on the basis of a constitutional complaint, review the conformity with the

Fundamental Law of any judicial decision . . . f) shall examine any law for conflict with any international treaties”

The State. Article 30. “(1) The Commissioner for Fundamental Rights shall perform fundamental rights protection activities; his or her procedures may be initiated by anyone. (2) The Commissioner for Fundamental Rights shall investigate any violations related to fundamental rights that come to his or her knowledge, or have such violations investigated, and shall initiate general or specific measures to remedy them”⁴⁹

J. Kazakhstan Domestic Law

1. Constitution of Kazakhstan:

Article 3. “4. The state power in the Republic of Kazakhstan shall be unified and executed on the basis of the Constitution and laws in accordance with the principle of its division into the legislative, executive and judicial branches and a system of checks and balances, which governs their interaction.”

Article 4. “1. The provisions of the Constitution, the laws corresponding to it, other regulatory legal acts, international treaty and other commitments of the Republic as well as regulatory resolutions of Constitutional Council and the Supreme Court of the Republic shall be the functioning law in the Republic of Kazakhstan. 2. The Constitution shall have the highest juridical force and direct effect on the entire territory of the Republic. 3. International treaties ratified by the Republic shall have priority over its laws and be directly implemented except in cases, when the application of an international treaty requires the issuance of law”

⁴⁹ Hungary: Fundamental Law of Hungary [Hungary], 25 April 2011, <https://www.refworld.org/docid/53df98964.html>

Article 8. “The Republic of Kazakhstan shall respect principles and norms of international law”

Article 12. “1. Human rights and freedoms in the Republic of Kazakhstan shall be recognized and guaranteed in accordance with this Constitution. 2. Human rights and freedoms shall belong to everyone by virtue of birth, be recognized as absolute and inalienable, and define the contents and implementation of laws and other regulatory legal acts . . . 4. Foreigners and stateless people in the Republic shall enjoy rights and freedoms as well as bear responsibilities, established for the citizens unless otherwise stipulated by the Constitution, laws and international treaties. 5. Exercise of a citizen’s human rights and freedoms must not violate rights and freedoms of other people, infringe on the constitutional system and public morals.”

Article 13. “1. Legal personality of everyone shall be recognized and everyone shall have the right to protect his rights and freedoms with all means not contradicting the law . . . 2. Everyone shall have the right to judicial defense of his rights and freedoms. 3. Everyone shall have the right to take qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge.”

Article 14. “1. Everyone shall be equal before the law and court. 2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.”

Article 16. “1. Everyone shall have the right to personal freedom”

Article 17. “1. A person’s dignity shall be inviolable. 2. No one must be subject to torture, violence or other treatment and punishment, that is cruel or humiliating to human dignity.”

Article 18. “1. Everyone shall have the right to inviolability of private life, personal or family secrets, protection of honor and dignity. 2. Everyone shall have the right to confidentiality of . . . correspondence, telephone conversations, postal, telegraph and other messages. Limitation of this right shall be permitted only in the cases and according to the procedure directly established by law. 3. State bodies, public associations, officials, and the mass media must provide every citizen with the possibility to become familiar with the documents, decisions and other sources of information concerning his rights and interests.”

Article 21. “1. Everyone who has a legal right to stay on the territory of the Republic of Kazakhstan shall have the right to freely move about its territory and freely choose a place of residence, except in cases stipulated by law. 2. Everyone shall have the right to leave the territory of the Republic”

Article 24. “1. Everyone shall have the right to freedom of labor, and the free choice of occupation and profession”

Article 39. “1. Rights and freedoms of an individual and citizen may be limited only by laws and only to the extent necessary for protection of the constitutional system, defense of the public order, human rights and freedoms, health and morality of the population”⁵⁰

⁵⁰ *Constitution of the Republic of Kazakhstan* [Kazakhstan], 6 September 1995, <https://www.refworld.org/docid/3ae6b52a10.html>.

K. Latvia Domestic Law

1. Constitution of Latvia:

Article 85. “In Latvia, there shall be a Constitutional Court, which, within its jurisdiction as provided for by law, shall review cases concerning the conformity of laws with the Constitution, as well as other cases conferred within the jurisdiction thereof by law. The Constitutional Court is entitled to declare laws or other enactments or parts thereof invalid”

Article 89. “The State shall recognise and protect fundamental human rights in accordance with this Constitution, laws and international agreements binding upon Latvia.”

Article 91. “All human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind.”

Article 92. “Everyone has the right to defend his or her rights and lawful interests in a fair court. Everyone shall be presumed innocent until his or her guilt has been established in accordance with law. Everyone, where his or her rights are violated without basis, has a right to commensurate compensation. Everyone has a right to the assistance of counsel.”

Article 94. “Everyone has the right to liberty and security of person. No one may be deprived of or have their liberty restricted, otherwise than in accordance with law.”

Article 95. “The State shall protect human honour and dignity. Torture or other cruel or degrading treatment of human beings is prohibited. No one shall be subjected to inhuman or degrading punishment.”

Article 96. “Everyone has the right to inviolability of his or her private life, home and correspondence.”

Article 97. “Everyone residing lawfully in the territory of Latvia has the right to freely move and to choose his or her place of residence.”

Article 98. “Everyone has the right to freely depart from Latvia”

Article 104. “Everyone has the right to address submissions to State or local government institutions and to receive a materially responsive reply”

Article 106. “Everyone has the right to freely choose their employment and workplace according to their abilities and qualifications”

Article 111. “The State shall protect human health and guarantee a basic level of medical assistance for everyone.”⁵¹

L. Montenegro Domestic Law

1. Constitution of Montenegro:

Article 6. “Montenegro shall guarantee and protect rights and liberties. The rights and liberties shall be inviolable. Everyone shall be obliged to respect the rights and liberties of others.”

Article 7. “Infliction or encouragement of hatred or intolerance on any grounds shall be prohibited.”

Article 8. “Direct or indirect discrimination on any grounds shall be prohibited”

Article 9. “The ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have the

⁵¹ English translation of the Latvian text of the Constitution of 1922 as consolidated to the amending law of 4 October 2018 which was promulgated on 16 October 2018 and entered into force on 1 January 2019. 8 (2019) Chapter VIII: Fundamental Human Rights, <https://heinonline.org/HOL/P?h=hein.cow/zzlv0059&i=8>.

supremacy over the national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation.”

Article 17. “Rights and liberties shall be exercised on the basis of the Constitution and the confirmed international agreements. All shall be deemed equal before the law, regardless of any particularity or personal feature.”

Article 19. “Everyone shall have the right to equal protection of the rights and liberties thereof.”

Article 20. “Everyone shall have the right to legal remedy against the decision ruling on the right or legally based interest thereof.”

Article 21. “Everyone shall have the right to legal aid. Legal aid shall be provided by the bar, as an independent and autonomous profession, and by other services. Legal aid may be provided free of charge, in accordance with the law.”

Article 24. “Guaranteed human rights and freedoms may be limited only by the law, within the scope permitted by the Constitution and to such an extent which is necessary to meet the purpose for which the limitation is allowed, in an open and democratic society. Limitations shall not be introduced for other purposes except for those for which they have been provided for.”

Article 28. “The dignity and security of a man shall be guaranteed. The inviolability of the physical and mental integrity of a man, and privacy and individual rights thereof shall be guaranteed. No one can be subjected to torture or inhuman or degrading treatment”

Article 29. “Everyone shall have the right to personal liberty. Deprivation of liberty is allowed only for reasons and in the procedure provided for by law. Person deprived of liberty shall be notified immediately of the reasons for the arrest thereof, in own language or in the language he/she understands . . . At the request of the person deprived of his/her liberty, the authority shall immediately inform about the deprivation of liberty the person of own choosing of the person deprived of his/her liberty . . . Unlawful deprivation of liberty shall be punishable.”

Article 31. “The respect of human personality and dignity in the criminal or other procedure, in case of deprivation or limitation of liberty . . . shall be guaranteed. Any form of violence, inhuman or degrading behavior against a person . . . whose liberty has been limited . . . shall be prohibited and punishable.”

Article 32. “Everyone shall have the right to fair and public trial within reasonable time before an independent and impartial court established by the law.”

Article 35. “Everyone shall be deemed innocent until the guilt thereof has been established by an enforceable court decision. The accused shall not be obliged to prove the innocence thereof. The court shall interpret the doubt regarding the guilt to the benefit of the accused.”

Article 38. “Person deprived of liberty in an illegal or ungrounded manner or convicted without grounds shall have the right to the compensation of damage from the state.”

Article 39. “The right to freedom of movement and residence shall be guaranteed, as well as the right to leave Montenegro. Freedom of movement, residence and leaving Montenegro may be restricted if required so for conducting the criminal procedure . . . or for the security of Montenegro. Movement and residence of foreigner citizens shall be regulated by the law.”

Article 40. “Everybody shall have the right to respect for his/her private and family life.”

Article 44. “A foreign national reasonably fearing from persecution on the grounds of his/her race, language, religion or association with a nation or a group or due to own political beliefs may request asylum in Montenegro”

Article 51. “Everyone shall have the right to access information held by the state authorities and organizations exercising public authority. The right to access to information may be limited if this is in the interest of: the protection of life; public health; morality and privacy; carrying of criminal proceedings; security and defense of Montenegro; foreign, monetary and economic policy.”

Article 56. “Everyone shall have the right of recourse to international institutions for the protection of own rights and freedoms guaranteed by the Constitution.”

Article 57. “Everyone shall have the right of recourse, individually or collectively with others, to the state authority or the organisation exercising public powers and receive a response. No one shall be held responsible, or suffer other harmful consequences due to the views expressed in the recourse, unless having committed a crime in doing so.”

Article 62. “Everyone shall have the right to work, to free choice of occupation and employment, to fair and human working conditions and to protection during unemployment.”

Article 69. “Everyone shall have the right to health protection”

Article 118. “The court is autonomous and independent. The court shall rule on the basis of the Constitution, laws and confirmed and published international agreements. Establishment of court marshal and extraordinary courts shall be prohibited.”

Article 145. “The law shall be in conformity with the Constitution and confirmed international agreements, and other regulations shall be in conformity with the Constitution and the law.”

Article 150. “Any person may file an initiative to start the procedure for the assessment of constitutionality and legality . . . During the procedure, the Constitutional Court may order to stop the enforcement of an individual act or actions that have been taken on the basis of the law, other regulation or general act, the constitutionality, i.e. legality of which is being assessed, if the enforcement thereof could cause irreparable damage.”⁵²

M. Oman Domestic Law

1. Constitution of Oman:

Article 9. “The Governance in the Sultanate shall be based upon justice, Shura, and equality”

Article 17. “All Citizens are equal before the Law and share the same public rights and duties. There shall be no discrimination amongst them on the ground of gender, origin, colour, language, religion, sect, domicile, or social status.”

Article 18. “Personal freedom is guaranteed according to the Law, and it is not permissible to arrest a person, search, detain, imprison, subject to residence detention, or restrict his freedom of residency or movement except in accordance with the provisions of the Law.”

⁵² English translation of the Montenegrin text of the Constitution of 1992 as consolidated to the amending law of 2013 which was promulgated and entered into force on 2015. (2015), https://heinonline-org.libproxy.lib.unc.edu/HOL/COWShow?collection=cow&cow_id=560.

Article 20. “No person shall be subjected to physical or psychological torture, inducement or demeaning treatment. The Law stipulates punishment of whomever commits such acts. Any statement or confession proven to have been obtained under torture, inducement, demeaning treatment, or the threat of any of these acts, shall be deemed void.”

Article 21. “There shall be no crime except by virtue of a Law. There shall be no punishment, except for acts subsequent to the entry into force of the Law wherein such acts are stated”

Article 25. “Litigation is a protected right and it is guaranteed to all people. The Law shall prescribe the procedures and conditions necessary to exercise this right, and the State shall guarantee, as far as possible, the approximation of judicial authorities to litigants and the prompt settlement of cases.”

Article 35. “Every foreigner who is legally present in the Sultanate shall enjoy protection for himself and his property in accordance with the Law. He shall observe the values of the Society and respect the traditions and sentiments thereof.”⁵³

N. Portugal Domestic Law

1. Constitution of Portugal:

Article 2. “The Portuguese Republic shall be a democratic state based on the rule of law . . . respect for and the guarantee of the effective implementation of fundamental rights and freedoms”

⁵³ English translation of the Arabic original text of the Basic Statute of 1996 as amended to 2011 [7] (2013) Chapter Three: The Public Rights and Duties, <https://heinonline.org/HOL/P?h=hein.cow/zzom0004&i=7>.

Article 7. “With a view to achieving an international justice that promotes respect for the rights of both individual human persons and peoples, and subject to the provisions governing complementarity and the other terms laid down in the Rome Statute, Portugal may accept the jurisdiction of the International Criminal Court.”

Article 8. “1. The rules and principles of general or common international law shall form an integral part of Portuguese law. 2. The rules set out in duly ratified or passed international agreements shall come into force in Portuguese internal law once they have been officially published, and shall remain so for as long as they are internationally binding on the Portuguese state. 3. Rules issued by the competent bodies of international organisations to which Portugal belongs shall come directly into force in Portuguese internal law, on condition that this is laid down in the respective constituent treaties. 4. The provisions of the treaties that govern the European Union and the rules issued by its institutions in the exercise of their respective responsibilities shall apply in Portuguese internal law in accordance with Union law and with respect for the fundamental principles of a democratic state based on the rule of law.”

Article 13. “1. Every citizen shall possess the same social dignity and shall be equal before the law. 2. No one shall be privileged, favoured, prejudiced, deprived of any right or exempted from any duty on the basis of ancestry, sex, race, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation.”

Article 15. “1. Foreigners and stateless persons who fund themselves or who reside in Portugal shall enjoy the same rights and be subject to the same duties as Portuguese citizens”

Article 16. “1. The fundamental rights enshrined in this Constitution shall not exclude such other rights as may be laid down by law and in the applicable rules of international law. 2. The provisions of this Constitution and of laws concerning fundamental rights shall be interpreted and construed in accordance with the Universal Declaration of Human Rights.”

Article 18. “1. This Constitution's provisions with regard to rights, freedoms and guarantees shall be directly applicable to and binding on public and private persons and bodies. 2. The law may only restrict rights, freedoms and guarantees in cases expressly provided for in this Constitution, and such restrictions shall be limited to those needed to safeguard other rights and interests protected by this Constitution. 3. Laws that restrict rights, freedoms and guarantees shall possess an abstract and general nature and shall not possess a retroactive effect or reduce the extent or scope of the essential content of the provisions of this Constitution.”

Article 20. “1. Everyone shall be guaranteed access to the law and the courts in order to defend those of his rights and interests that are protected by law, and justice shall not be denied to anyone due to lack of financial means. 2. Subject to the terms of the law, everyone shall possess the right to legal information and advice, to legal counsel and to be accompanied by a lawyer before any authority. 3. The law shall define and ensure adequate protection of the secrecy of legal proceedings. 4. Everyone shall possess the right to secure a ruling in any suit to which he is a party, within a reasonable period of time and by means of fair process. 5. For the purpose of safeguarding personal rights, freedoms and guarantees and in such a way as to secure effective and timely judicial protection against threats thereto or breaches thereof, the law shall ensure citizens judicial proceedings that are characterised by their swiftness and by the attachment of priority to them.”

Article 22. “Jointly with their officeholders, staff and agents, the state and all other public bodies shall be civilly liable for such actions or omissions in the performance of their functions as result in a breach of rights, freedoms or guarantees or in any loss to others.”

Article 23. “1. Citizens may submit complaints against actions or omissions by the public authorities to the Ombudsman, who shall assess them without the power to take decisions and shall send the competent bodies such recommendations as may be necessary in order to prevent or make good any injustices. 2. The Ombudsman's work shall be independent of any acts of grace or legal remedies provided for in this Constitution or the law. 3. The Ombudsman's office shall be an independent body and the Assembly of the Republic shall appoint the Ombudsman for such time as the law may determine. 4. The bodies and agents of the Public Administration shall cooperate with the Ombudsman in the fulfilment of his mission.”

Article 25. “1. Every person's moral and physical integrity shall be inviolable. 2. No one shall be subjected to torture or to cruel, degrading or inhuman treatment or punishment.”

Article 26. “1. Everyone shall possess the right to a personal identity . . . to civil capacity . . . to a good name and reputation . . . to speak out, to protect the privacy of their personal and family life, and to legal protection against any form of discrimination. 2. The law shall lay down effective guarantees against the procurement and misuse of information concerning persons and families and its use contrary to human dignity . . . 4. Deprivation of citizenship and restrictions on civil capacity may only occur in such cases and under such terms as may be provided for by law, and shall not be based on political motives.”

Article 27. “1. Everyone shall possess the right to freedom and security. 2. No one may be wholly or partially deprived of their freedom, except as a consequence of a judicial sentence

imposed for the practise of an act that is punishable by law with a prison term or the imposition by a court of a security measure . . . 4. Every person who is deprived of his freedom shall immediately be informed in an understandable manner of the reasons for his arrest, imprisonment or detention and of his rights. 5. Deprivation of freedom contrary to the provisions of this Constitution and the law shall place the state under a duty to compensate the aggrieved person in accordance with the law.”

Article 30. “1. No sentence or security measure that deprives or restricts freedom shall be perpetual in nature or possess an unlimited or undefined duration . . . 4. No sentence shall automatically result in the loss of any civil, professional or political right. 5. Convicted persons who are the object of a sentence or security measure that deprives them of their freedom shall retain their fundamental rights, subject only to such limitations as are inherent to their convictions and to the specific requirements imposed by the execution of the respective sentences.”

Article 33. “8. The right of asylum shall be guaranteed to foreigners and stateless persons who are the object, or are under grave threat, of persecution as a result of their activities in favour of democracy, social and national liberation, peace among peoples, freedom or rights of the human person. 9. The law shall define the status of political refugee.”

Article 44. “1. Every citizen shall be guaranteed the right to travel and settle freely anywhere in Portuguese territory. 2. Every citizen shall be guaranteed the right to emigrate or to leave Portuguese territory and the right to return thereto.”

Article 47. “1. Everyone shall possess the right to freely choose a profession or type of work, subject only to such restrictions as the law may impose in the collective interest, or as are inherent to his own capabilities”

Article 52. “1. Every citizen shall possess the right to individually, or jointly with others, submit petitions, representations, claims or complaints in defence of their rights, this Constitution, the laws or the general interest to bodies that exercise sovereign power, the autonomous regions' self-government bodies or any authority, as well as the right to be informed of the result of the consideration thereof within a reasonable period of time”

Article 58. “1. Everyone shall possess the right to work”⁵⁴

O. Qatar Domestic Law

1. Constitution of Qatar:

Article 6. “The State shall respect international charters and conventions and shall strive to implement all international agreements, charters and conventions to which it is party.”

Article 35. “All persons are equal before the Law and there shall be no discrimination whatsoever on grounds of gender, race, language or religion.”

Article 36. “Personal freedom shall be guaranteed and no person may be arrested, detained or searched, neither may his freedom of residence and mobility be restricted, save under the provisions of the Law. No person may be subjected to torture or any degrading treatment, and torture shall be deemed a crime punishable by Law.”

⁵⁴ English translation of the Portuguese original text of the Constitution of 1976, as consolidated in the 7th Revision of 2005 [18] (1976) Title II: Rights, Freedoms and Guarantees, <https://heinonline.org/HOL/P?h=hein.cow/zzpt0001&i=1>.

Article 37. “The sanctity of the individual's privacy shall be inviolable, and therefore interference in a person's privacy, family affairs, home or correspondence, or any other act of interference that may demean or defame a person, shall not be allowed, save as permitted by the provisions stipulated in the Law.”

Article 40. “No crime and no punishment shall apply, save as prescribed by the Law . . . Punishment is personal to the offender such that sentences are non-transferrable and inalienable.”

Article 46. “Individuals have the right to communicate with public authorities.”

Article 135. “Access to justice shall be guaranteed to all people. The Law shall specify the procedures and manner of exercising this right.”⁵⁵

P. Senegal Domestic Law

1. Constitution of Senegal:

Article 7. “The human person is sacred. It is inviolable. The State has the obligation to respect it and to protect it. Every individual has the right to life, to liberty, to security . . . The Senegalese people recognize the existence of the inviolable and inalienable rights of man as the basis of all human community, of peace and of justice in the world. All human beings are equal before the law”

Article 8. “The Republic of Senegal guarantees to all citizens the fundamental individual freedoms, the economic and social rights as well as the collective rights. These freedoms and rights are notably: - the civil and political freedoms: freedom of opinion, freedom of expression . . . freedom of association, freedom of assembly, freedom of movement . . . the freedom of

⁵⁵ English Text of the Constitution of 2004 [6] (2021) Part 3: Public Rights and Duties, <https://heinonline.org/HOL/P?h=hein.cow/zzqa0006&i=1>.

enterprise . . . the right to work, - the right to health . . . These freedoms and these rights are exercised within the conditions provided for by the law.”

Article 14. “All the citizens of the Republic have the right to move themselves and to establish themselves freely on the whole extent of the national territory as well as abroad. These freedoms are exercised within the conditions provided for by the law.”

Article 25. “Everyone has the right to work and the right to seek employment. No one may be impeded in their work for reason of their origins, of their sex, of their opinions, of their political choices or of their beliefs”

Article 91. “The judicial power is the guardian of the rights and freedoms defined by the Constitution and the law.”

Article 98. “The treaties or agreements regularly ratified or approved have, on their publication, an authority superior to that of the laws, under reserve, for each treaty or agreement, of its application by the other party.”⁵⁶

Q. Serbia Domestic Law

1. Constitution of Serbia:

Article 3. “Rule of law is a fundamental prerequisite for the Constitution which is based on inalienable human rights”

Article 16. “The foreign policy of the Republic of Serbia shall be based on generally accepted principles and rules of international law. Generally accepted rules of international law

⁵⁶ English translation of the French text of the Constitution of 2001 as amended to Law No. 2019-10 of 14 May 2019. 6 (2001) Title II: Of the Public Freedoms and [Freedoms] of the Human Person, of Economic and Social Rights and of Collective Rights, <https://heinonline.org/HOL/P?h=hein.cow/zzsn0002&i=7>.

and ratified international treaties shall be an integral part of the legal system in the Republic of Serbia and applied directly. Ratified international treaties must be in accordance with the Constitution.”

Article 17. “Pursuant to international treaties, foreign nationals in the Republic of Serbia shall have all rights guaranteed by the Constitution and law with exception of rights to which only the citizens of the Republic of Serbia are entitled under the Constitution and law.”

Article 18. “Human and minority rights guaranteed by the Constitution shall be implemented directly. The Constitution shall guarantee, and as such, directly implement human and minority rights guaranteed by the generally accepted rules of international law, ratified international treaties and laws. The law may prescribe manner of exercising these rights only if explicitly stipulated in the Constitution or necessary to exercise a specific right owing to its nature, whereby the law may not under any circumstances influence the substance of the relevant guaranteed right. Provisions on human and minority rights shall be interpreted to the benefit of promoting values of a democratic society, pursuant to valid international standards in human and minority rights, as well as the practice of international institutions which supervise their implementation.”

Article 20. “Human and minority rights guaranteed by the Constitution may be restricted by the law if the Constitution permits such restriction and for the purpose allowed by the Constitution, to the extent necessary to meet the constitutional purpose of restriction in democratic society and without encroaching upon the substance of the relevant guaranteed right”

Article 21. “All are equal before the Constitution and law. Everyone shall have the right to equal legal protection, without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited”

Article 22. “Everyone shall have the right to judicial protection when any of their human or minority rights guaranteed by the Constitution have been violated or denied, they shall also have the right to elimination of consequences arising from the violation”

Article 25. “Nobody may be subjected to torture, inhuman or degrading treatment or punishment”

Article 34. “Everyone shall be presumed innocent for a criminal offence until convicted by a final judgement of the court. No person may be prosecuted or sentenced for a criminal offence for which he has been acquitted”

Article 36. “Equal protection of rights before courts and other state bodies, entities exercising public powers and bodies of the autonomous province or local self-government shall be guaranteed. Everyone shall have the right to an appeal or other legal remedy against any decision on his rights, obligations or lawful interests.”

Article 37. “Everyone shall have legal capacity”

Article 39. “Everyone shall have the right to free movement and residence in the Republic of Serbia, as well as the right to leave and return. Freedom of movement and residence, as well as the right to leave the Republic of Serbia may be restricted by the law if necessary for the purpose of conducting criminal proceedings, protection of public order . . . or defense of the

Republic of Serbia. Entry and stay of foreign nationals in the Republic of Serbia shall be regulated by the law”

Article 42. “Protection of personal data shall be guaranteed . . . Everyone shall have the right to be informed about personal data collected about him, in accordance with the law, and the right to court protection in case of their abuse.”

Article 56. “Everyone shall have the right to put forward petitions and other proposals alone or together with others, to state bodies, entities exercising public powers, bodies of the autonomous province and local self-government units and to receive reply from them if they so request. No person may suffer detrimental consequences for putting forward a petition or proposal. No person may suffer detrimental consequences for opinions stated in the petition or proposal unless they constitute a criminal offense.”

Article 57. “Any foreign national with reasonable fear of prosecution based on his race, gender, language, religion, national origin or association with some other group, political opinions, shall have the right to asylum in the Republic of Serbia. The procedure for granting asylum shall be regulated by the law.”

Article 60. “Right to work shall be guaranteed in accordance with the law. Everyone shall have the right to choose his occupation freely”

Article 67. “Everyone shall be guaranteed right to legal assistance under conditions stipulated by the law”

Article 68. “Everyone shall have the right to protection of their mental and physical health”

Article 76. “Persons belonging to national minorities shall be guaranteed equality before the law and equal legal protection. Any discrimination on the grounds of affiliation to a national minority shall be prohibited”

Article 145. “Court decisions are based on the Constitution and Law, the ratified international treaty and regulation passed on the grounds of the Law.”

Article 166. “The Constitutional Court shall be an autonomous and independent state body which shall protect constitutionality and legality, as well as human and minority rights and freedoms. The Constitutional Court decisions are final, enforceable and generally binding.”

Article 167. “The Constitutional Court shall decide on: 1. compliance of laws and other general acts with the Constitution, generally accepted rules of the international law and ratified international treaties, 2. Compliance of ratified international treaties with the Constitution”

Article 168. “Any legal or natural person shall have the right to an initiative to institute a proceedings of assessing the constitutionality and legality”

Article 170. “A constitutional appeal may be lodged against individual general acts or actions performed by state bodies or organisations exercising delegated public powers which violate or deny human or minority rights and freedoms guaranteed by the Constitution, if other legal remedies for their protection have already been applied or not specified.”

Article 194. “The Constitution shall be the supreme legal act of the Republic of Serbia. All laws and other general acts enacted in the Republic of Serbia must be in compliance with the Constitution. Ratified international treaties and generally accepted rules of the international law shall be part of the legal system of the Republic of Serbia . . . Laws and other general acts

enacted in the Republic of Serbia may not be in noncompliance with the ratified international treaties and generally accepted rules of the International Law.”

Article 198. “Individual acts and actions of state bodies, organisations with delegated powers, bodies of autonomous provinces and local self-government must be based on the Law. Legality of final individual acts deciding on a right, duty or legally grounded interest shall be subject to reassessing before the court in administrative proceedings, if other form of court protection has not been stipulated by the Law.”

Article 199. “Everyone shall have the right to use his/her language in the proceedings before the court, other state body or organisation performing public powers, when his/her right or duty is decided on”⁵⁷

2. Citizenship Law of Serbia:

Article 14. “A foreigner who, in line with the regulations on movement and residence of foreigners, was allowed to permanently reside in the Republic of Serbia can, upon his own request, be admitted to citizenship of the Republic of Serbia if: 1) He is 18 years old and not deprived of working capacity; 2) He is released from foreign citizenship or he submits evidence that he will be granted the dismissal if admitted to citizenship of the Republic of Serbia; 3) That until submitting of application for at least three years he has had uninterrupted residence in the territory of the Republic of Serbia; 4) He submits a written statement that he considers the Republic of Serbia his state. The condition from the point 2, para. 1 of this Article is fulfilled if an application was submitted by a person without citizenship . . . the fulfillment of conditions

⁵⁷ *Constitution of the Republic of Serbia* [Serbia], 30 September 2006, <https://www.refworld.org/docid/4b5579202.html>.

from point 2 para 1 of this Article is not requested if the applicant submits a declaration renouncing foreign citizenship in case of acquiring citizenship of the Republic of Serbia. Renouncing or loss of previous citizenship shall not be requested if that is not possible or cannot be reasonably expected.”⁵⁸

R. Slovakia Domestic Law

1. Constitution of Slovakia:

Article 1. “(2) The Slovak Republic acknowledges and adheres to general rules of international law, international treaties by which it is bound, and its other international obligations.”

Article 7. “(2) The Slovak Republic may, by an international agreement ratified and published in a manner specified by constitutional law, or on the basis of such an agreement, delegate the implementation of a part of its rights to the European Community and the European Union. Legally binding acts of the European Community and the European Union have priority over the laws of the Slovak Republic . . . 5) International agreements on human rights and fundamental liberties, international agreements which do not require a law for their implementation and international agreements which directly determine the rights or obligations of physical or legal persons and which have been ratified and published by means of an established law, take precedence over laws.”

Article 12. “(1) All human beings are free and equal in dignity and rights. Their fundamental rights and freedoms are inalienable, irrevocable, and absolutely perpetual. (2) Fundamental rights shall be guaranteed in the Slovak Republic to every person regardless of sex,

⁵⁸ *Law on Citizenship of the Republic of Serbia* [Serbia], 2004, <https://www.refworld.org/docid/4b56d0542.html>.

race, colour, language, faith, religion, political affiliation or conviction, national or social origin, nationality or ethnic origin, property, birth or any other status, and no person shall be denied their legal rights, discriminated against or favoured on any of these grounds . . . (4) No person shall be prevented from exercising his or her fundamental rights and freedoms.”

Article 13. “(1) Obligations can only be imposed : a) by the law or on the basis of a law, within its limits and in the respect of fundamental rights and liberties. b) by international agreement according to Article 7, paragr. 4, which directly determines the rights and obligations of physical and legal persons, or c) by directive of the Government according to art. 119, paragr. 2. (2) Limitation of fundamental rights and freedoms shall be imposed only under the conditions set forth in this Constitution. (3) Restrictions of constitutional rights and freedoms shall be applied equally and consistently in all similar cases. (4) When imposing restrictions on constitutional rights and freedoms, respect must be given to the essence and meaning of these rights and freedoms and such restrictions shall be used only for specifically defined purposes.”

Article 14. “Every person shall be entitled to his or her rights.”

Article 16. “(1) The right of every individual to integrity and privacy shall be guaranteed. This right may be limited only in cases specifically provided by law. (2) No person shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.”

Article 17. “(1) Personal liberty of every individual shall be guaranteed. (2) No one shall be prosecuted or deprived of liberty unless for reasons and by methods set by law”

Article 19. “(1) Every person shall have the right to maintain and protect his or her dignity, honor, reputation and good name. (2) Everyone shall have the right to be free from

unjustified interference in his or her privacy and family life. (3) Anyone has the right to be protected against unwarranted collection, disclosure, and other misuse of personal information.”

Article 23. “(1) Freedom of movement and residence shall be guaranteed. (2) Everyone residing legally on the territory of the Slovak Republic has the right to leave its territory freely. (3) Freedoms defined in paragraphs 1 and 2 may be restricted by a law if it is necessary for national security, maintenance of public order, for the health protection or the protection of the rights and freedoms of others, and in the interest of the environment protection in specified territories”

Article 27. “(1) The right to petition shall be guaranteed. Every person shall have the right to address governmental authorities and public administration in individual and public matters with petitions, proposals, and complaints either individually or in association with other persons”

Article 35. “(1) Every person shall have the right to choose freely his or her profession and to receive appropriate training, as well as the right to earn his or her living through entrepreneurial activities. (2) Terms of, or restrictions on, specific professions, trades or activities may be regulated by law. (3) Citizens shall have the right to work. The State shall guarantee, within reasonable limits, the material welfare of those who cannot enjoy this right through no fault of their own. The terms thereof shall be specified by law. (4) The rights of aliens provided in sections (1) to (3) of this Article, as concerns aliens, may be governed under a separate law.”

Article 40. “Every person shall have the right to protect his or her health”

Article 46. “(1) Every person may claim his or her right by procedures established by law at an independent and impartial court of law or other public authority of the Slovak Republic in

cases specified by law. (2) Any person who claims to have been denied his or her rights through a decision made by a public authority may turn to a court of law to have the legality of the decision reviewed, unless otherwise provided by law. The review of decisions in matters of fundamental rights and freedoms shall not be excluded from the jurisdiction of courts of law. (3) Every person shall have the right to recover damages for a loss caused by an unlawful decision of the court, a governmental or public authority or by improper official procedure. (4) Details and terms of the judicial and other legal protection shall be regulated by law.”

Article 47. “(2) Every person shall have the right to counsel from the outset of proceedings before any court of law, or a governmental or public authority as provided by law. (3) All parties to any proceedings under section (2) of this Article shall be treated equally under the law. (4) A person who claims not to know the language used in the proceedings under section (2) of this Article shall have the right to an interpreter.”

Article 52. “(1) Whenever the term "citizen" is used in Part One and Part Two of this Constitution, it means a citizen of the Slovak Republic. (2) Unless expressly designated only for the citizens of the Slovak Republic, aliens shall enjoy the same fundamental rights and freedoms guaranteed by this Constitution. (3) Whenever the term "citizen" is used in any previous rules, it means any person provided the rights and freedoms are guaranteed by this Constitution, irrespective of the citizenship.”

Article 53. “The Slovak Republic shall grant asylum to aliens persecuted for the exercise of political rights and freedoms. Such asylum may be denied to those who have acted to violate the fundamental human rights and freedoms. Details shall be provided by law.”

Article 125. “(1) The Constitutional Court shall decide on the conformity of a) laws with the Constitution, constitutional laws and international treaties to which the National Council of the Slovak Republic has expressed its assent and which were ratified and promulgated in the manner laid down by a law, b) government regulations, generally binding legal regulations of Ministries and other central state administration bodies with the Constitution, with constitutional laws, with international treaties to which the National Council of the Slovak Republic has expressed its assent and which were ratified and promulgated in the manner laid down by a law and with laws, c) generally binding regulations pursuant to Art. 68, with the Constitution, with constitutional laws and with international treaties to which the National Council of the Slovak Republic has expressed its assent and which were ratified and promulgated in the manner laid down by a law, save another court shall decide on them, d) generally binding legal regulations of the local bodies of state administration and generally binding regulations of the bodies of territorial self-administration pursuant to Art. 71 para. 2, with the Constitution, with constitutional laws, with international treaties promulgated in the manner laid down by a law, with laws, with government regulations and with generally binding legal regulations of Ministries and other central state administration bodies, save another court shall decide on them. (2) If the Constitutional Court accepts the proposal for proceedings pursuant to paragraph 1, it can suspend the effect of challenged legal regulations, their parts, or some of their provisions, if fundamental rights and freedoms may be threatened by their further application, if there is a risk of serious economic damage or other serious irreparable consequence”

Article 127. “(1) The Constitutional Court shall decide on complaints of natural persons or legal persons if they are pleading the infringement of their fundamental rights or freedoms, or human rights and fundamental freedoms resulting from the international treaty which has been

ratified by the Slovak Republic and promulgated in the manner laid down by a law, save another court shall decide on protection of these rights and freedoms. (2) If the Constitutional Court accepts a complaint, it shall hold in its decision that the rights or freedoms according to paragraph 1 were infringed by a valid decision, measure or by other action and it shall cancel such a decision, measure or other action. If the infringement of rights or freedoms according to paragraph 1 emerges from inactivity, the Constitutional Court may order the one who has infringed these rights or freedoms to act in the matter. The Constitutional Court may at the same time remand the matter for further proceedings, prohibit continuing in the infringement of fundamental rights and freedoms or human rights and fundamental freedoms resulting from the international treaty which has been ratified by the Slovak Republic and promulgated in the manner laid down by a law, or if possible, to order the one who has infringed the rights or freedoms according to paragraph 1 to reinstate the status before the infringement. (3) The Constitutional Court may, by the decision by which it allows a complaint, award the one whose rights according to paragraph were infringed an adequate financial satisfaction. (4) The responsibility of the one who has infringed the rights or freedoms according to paragraph 1, for the damage or other injury shall not be affected by the judgement of the Court.”

Article 154c. “(1) International treaties on human rights and fundamental freedoms which the Slovak Republic has ratified and were promulgated in the manner laid down by a law before taking effect of this constitutional act, shall be a part of its legal order and shall have precedence over laws if they provide a greater scope of constitutional rights and freedoms. (2) Other international treaties which the Slovak Republic has ratified and were promulgated in the manner

laid down by a law before taking effect of this constitutional act, shall be a part of its legal order, if so provided by a law.”⁵⁹

S. Spain Domestic Law

1. Constitution of Spain:

Article 10. “1. The human dignity, the inviolable and inherent rights . . . the respect for the law and for the rights of others are the foundation of political order and social peace. 2. The principles relating to the fundamental rights and liberties recognised by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreements thereon ratified by Spain.”

Article 13. “1. Aliens shall enjoy the public freedoms guaranteed by the present Title, under the terms to be laid down by treaties and the law . . . 4. The law shall establish the terms under which citizens from other countries and stateless persons may enjoy the right to asylum in Spain.”

Article 14. “Spaniards are equal before the law and may not in any way be discriminated against on account of birth, race, sex, religion, opinion or any other personal or social condition or circumstance.”

Article 15. “Everyone has the right to life and to physical and moral integrity, and may under no circumstances be subjected to torture or to inhuman or degrading punishment or treatment”

⁵⁹ English translation of the Slovak original text of the Constitution of 1992 as amended to 2020 [1] (2020), <https://heinonline.org/HOL/P?h=hein.cow/zzsk0064&i=1>.

Article 17. “1. Every person has a right to freedom and security. No one may be deprived of his or her freedom except in accordance with the provisions of this article and in the cases and in the manner provided by the law”

Article 18. “1. The right to honour, to personal and family privacy . . . 3. Secrecy of communications is guaranteed, particularly of postal, telegraphic and telephonic communications, except in the event of a court order to the contrary. 4. The law shall limit the use of data processing in order to guarantee the honour and personal and family privacy of citizens and the full exercise of their rights.”

Article 19. “Spaniards have the right to choose their place of residence freely, and to move about freely within the national territory. Likewise, they have the right to freely enter and leave Spain subject to the conditions to be laid down by the law. This right may not be restricted for political or ideological reasons.”

Article 24. “1. Every person has the right to obtain the effective protection of the Judges and the Courts in the exercise of his or her legitimate rights and interests, and in no case may he go undefended. 2. Likewise, all persons have the right of access to the ordinary judge predetermined by law; to the defence and assistance of a lawyer; to be informed of the charges brought against them; to a public trial without undue delays and with full guarantees . . . and to be presumed innocent. 3. The law shall determine the cases in which, for reasons of family relationship or professional secrecy, it shall not be compulsory to make statements regarding alleged criminal offences.”

Article 29. “1. All Spaniards shall have the right to individual and collective petition, in writing, in the manner and subject to the consequences established by the law”

Article 35. “1. All Spaniards have the duty to work and the right to employment, to free choice of profession or trade, to advancement through their work, and to sufficient remuneration for the satisfaction of their needs and those of their families”

Article 53. “1. The rights and liberties recognised in Chapter Two of the present Title are binding for all public authorities. The exercise of such rights and liberties, which shall be protected in accordance with the provisions of Article 161, la), may be regulated only by law which shall, in any case, respect their essential content. 2. Any citizen may assert his or her claim to the protect the liberties and rights recognised in Article 14 and in Section 1 of Chapter Two, by means of a preferential and summary procedure in the ordinary courts and, when appropriate, by submitting an individual appeal for protection to the Constitutional Court”

Article 54. “An organic law shall regulate the institution of Ombudsman the People, who shall be a high commissioner of the Cortes Generales, appointed by them to defend the rights contained in this Title; for this purpose he may supervise Administration activities and report thereon to the Cortes Generales.”

Article 96. “1. Validly concluded international treaties, once officially published in Spain, shall form part of the internal legal order. Their provisions may only be repealed, amended or suspended in the manner provided in the treaties themselves or in accordance with the general rules of international law”

Article 161. “1. The Constitutional Court has jurisdiction over the whole of Spanish territory and is competent to hear: a) appeals against the alleged unconstitutionality of laws and regulations having the force of law. A declaration of unconstitutionality of a legal provision with the force of law, interpreted by jurisprudence, shall also affect the latter, although the overturned

sentence or sentences shall not lose their status of res judicata. b) individual appeals for protection against violation of the rights and liberties contained in Article 53.2 of the Constitution, in the circumstances and manner to be laid down by law . . . d) other matters assigned to it by the Constitution or by organic laws”⁶⁰

T. Uruguay Domestic Law

1. Constitution of Uruguay:

Article 7. “The inhabitants of the Republic have the right of protection in the enjoyment of life, honor, liberty, security, labor, and property. No one may be deprived of these rights except in conformity with laws which may be enacted for reasons of general interest.”

Article 8. “All persons are equal before the law, no other distinctions being recognized among them save those of talent and virtue.”

Article 12. “No one may be punished or imprisoned without due process of law and a legal sentence.”

Article 30. “Every inhabitant has the right of petition to all or any of the authorities of the Republic.”

Article 36. “Every person may engage in labor, farming, industry, commerce, a profession, or any other lawful activity, save for the limitations imposed by general interest which the law may enact.”

⁶⁰ English translation of the Constitution of 1978 as amended to 2011 10 (2020) Chapter I: Spaniards and Aliens, <https://heinonline.org/HOL/P?h=hein.cow/zzes0098&i=1>.

Article 37. “The entry of any person into the Republic, his residence therein, and his departure with his property, are free, if he obeys the laws, except in cases of prejudice to third parties.”

Article 53. “Labor is under the legal protection of the law. It is the duty of every inhabitant of the Republic, without prejudice to his freedom, to apply his intellectual or physical energies in a manner which will redound to the benefit of the community, which will endeavor to afford him, with preference to citizens, the possibility of earning his livelihood through the development of some economic activity.”

Article 72. “The enumeration of rights, duties, and guarantees made in this Constitution does not exclude others which are inherent in human beings or which are derived from a republican form of government.”

Article 75. “The following have the right to legal citizenship: A) Foreign men and women of good conduct, and having a family within the Republic, who possess some capital or property in the country, or are engaged in some profession, craft, or industry, and have resided habitually in the Republic for three years; B) Foreign men and women of good conduct, without families in the Republic, who possess any of the qualifications mentioned in the preceding paragraph and who have resided habitually in the country for five years; C) Foreign men and women who obtain special courtesy from the General Assembly for noteworthy services or outstanding merit. Proof of residence must necessarily be based on a public or private document of proven date. The rights appertaining to legal citizenship may not be exercised by foreigners included in paragraph (A) and (B) until three years after the issuance of the respective citizenship papers. The existence of any of the grounds for suspension referred to in Article 80 shall bar the granting of citizenship papers.”

Article 80. “Citizenship is suspended: . . . 2) By being under indictment on a criminal charge which may result in a penitentiary sentence . . . 4) By being under sentence which imposes the penalty of exile, prison, penitentiary, or loss of political rights during the term of the sentence; 5) By habitually engaging in morally dishonest activities”

Article 258. “The declaration of the unconstitutionality of a law and the inapplicability of the provisions affected thereby, may be requested by any person who considers that his direct, personal, and legitimate interest is injured: 1)By means of lawsuit, which must be filed before the Supreme Court of Justice; 2)By plea of exception, which may be made in any judicial proceeding”⁶¹

<https://law.unc.edu/wp-content/uploads/2023/06/appendixgtmo2.pdf>.

⁶¹ *Constitution of the Oriental Republic of Uruguay* [Uruguay], 27 November 1966, <https://www.refworld.org/docid/3ae6b5600.html>.