

# **ACTION PLAN**

**For the improvement and modernisation  
of the mechanisms of transparency and  
accountability of police forces in Spain**

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# Presentation

The Sustainable Development Goals (SDGs) of the United Nations Agenda 2030 require States to strengthen public institutions to be more robust, transparent, and respectful of human rights, and to ensure effective access to justice for all individuals (SDG 16). In rights-respecting democratic societies, it is essential that citizens have the freedoms and conditions necessary to live in dignity, enabling them to exercise their rights equally, while institutions can carry out their functions securely.

In the light of this shared vision, accountability of public institutions, particularly those whose actions affect the exercise and enjoyment of fundamental rights, is of paramount importance. This principle calls on States to adopt more modern mechanisms, with greater resources and independence, as well as more effective and transparent judicial and disciplinary procedures. The common objective is to ensure full respect for fundamental rights, which Law Enforcement Agencies (LEAs), as public servants, are obliged to uphold and protect.

In their role as public servants and as part of building public trust, police forces have a duty to publicly and regularly report, justify and take responsibility for their actions and the results they achieved.

Guided by the principles of efficiency, effectiveness, transparency and legality, Law Enforcement Agencies (LEAs) should also identify persistent challenges, learn from experience and implement necessary professional improvements, as in any other area of government.

At the international level, the establishment of transparency and accountability mechanisms is considered a key issue in

the democratisation of public administration. Important global and European human rights bodies have made this clear to the Spanish State. These include the United Nations Human Rights Committee and the Committee against Torture, the Special Rapporteur on extrajudicial, summary or arbitrary executions, as well as the European Committee for the Prevention of Torture and the Commissioner for Human Rights of the Council of Europe. In addition, the Autonomous Communities have promoted the creation of police oversight mechanisms in the Basque Country and Navarre, with the power to review the actions of regional and local police forces.

International bodies agree that effective accountability requires a comprehensive system of checks and balances involving multiple actors. Such a system includes internal accountability structures within the police service itself —internal affairs departments —; accountability to the branches of government, particularly the judiciary; public accountability to the public at large; and accountability to external oversight mechanisms.

In response to this current challenge, and with the aim of contributing to the implementation of international recommendations, this Action Plan proposes a public policy roadmap to the competent administrations, offering concrete recommendations on transparency and accountability, while respecting the distribution of competences between the Autonomous Communities and the State.

The proposal is based on the establishment of a working group made up of experts with extensive experience in the field, coming from different regions and professional backgrounds — academic, criminological, police, forensic, legal, human rights, etc. —. Through a coordinated effort, this proposal presents **36 recommendations** grouped into three (3) thematic blocks: **1)** External and Independent Body for Monitoring and Analysis of Law Enforcement Officials Actions; **2)** Internal Mechanisms

for Investigation and Accountability of The LEAs; and **3)** Judicial Investigations and Support for Victims of Police Actions.

Its purpose is to broaden the framework for debate and promote new points of engagement between institutions and civil society, to make the necessary improvements to ensure full respect for and compliance with international human rights law.



*Photo: Luis Kav*

# **BLOCK 1**

**External and Independent  
Body for Monitoring and  
Analysis of Law Enforcement  
Officials Actions**

**1**

In compliance with the international recommendations addressed to the Spanish State, the Congress of Deputies of Spain shall establish an external, public, and independent mechanism for the monitoring and analysis of the actions of law enforcement officials.

**2**

The Mechanism shall be established by a specific law and must have regulatory, organisational, functional and budgetary autonomy from the police institution and the Ministry of the Interior. This autonomy is intended to strengthen public legitimacy and confidence in the neutrality and objectivity of the oversight of the activities of law enforcement officers. The established body shall report and be accountable to the Congress of Deputies and be able to communicate on matters it deems of public interest, beyond the submission of an annual report.

**3**

The Mechanism must be provided with sufficient funds to adequately respond to its mandate, as well as to all functions recognised by law. The budget shall be assigned by the legislative power and made public.

**4**

The Mechanism shall include specialised personnel in human rights, forensic medicine, criminal investigation, police functions, international standards on the use of force, and all other disciplines necessary to carry out its duties with rigour and independence. The governing body shall consist of a Board of Directors, whose members will be elected by the Congress of Deputies of Spain through a rigorous process that ensures the highest degree of independence from the Government and police influence. The procedure for their election must be carried out through a public call for candidates and the creation of a multidis-

disciplinary selection committee, with the participation of civil society and the main government institutions, which will draw up a shortlist of candidates for Congress to select by qualified majority. The entire process must be public, transparent and based on merit and suitability. The President shall be subsequently elected by the members of the Board of Directors for a 5-year term.

**5**

The Mechanism shall have sufficient capacity, independence and discretion to initiate ex officio investigations into any conduct or practice in which law enforcement officials, in the exercise of their functions, have caused or are suspected of having caused death, injury, torture, attack on physical or moral integrity, sexual assault, discrimination, excessive use of force or any other matter which the mechanism itself deems of interest. Whereas the Mechanism considers that the analysis of a case may constitute a criminal offence or warrant a criminal investigation, it shall refer the matter to the judicial authority.

**6**

The Mechanism may receive individual complaints and reports, which it shall handle at its discretion in accordance with its mandate and rules. Where it deems it appropriate, it may refer the complaint to the relevant internal affairs departments and supervise the investigation. Cases that do not fall within its jurisdiction and have not been brought before the courts are recorded and may be referred to the Spanish Ombudsman or the relevant institution, as appropriate.

**7**

The obligation of administrations and law enforcement officials to collect all information in the cases set out in Recommendation 5 herein and to forward it



to the Mechanism immediately and without delay shall be established by law. Furthermore, the obligation of administrations and law enforcement officials to provide information and documentation requested by the Mechanism should be established by law. In turn, access to facilities, as well as to the necessary data, documents, databases, video and audio recordings, and all types of archives, should be provided. All law enforcement officials shall be obliged to cooperate in the investigation by attending summons and providing the necessary data and information, without prejudice to their right of defence, in the event of criminal proceedings against them. Failure to comply with this obligation should be subject to administrative or criminal penalties, depending on the seriousness of the offence. The Mechanism shall be empowered to communicate the degree of compliance with its requests, recommendations and decisions.

**8**

Whereas the facts analysed by the Mechanism are the subject of an ongoing judicial investigation, it shall bring the matter to the attention of the competent judicial authority. Whereas the Mechanism requires access to administrative documentation related to the case or on-site inspections, the Mechanism shall request prior judicial authorisation. In such cases, the Mechanism may analyse the specific police action as a whole and submit a report to the judicial authority, to provide an independent expert view. In the absence of cooperation in providing judicially authorised information, it may request the judicial authority to require the competent authority to provide it, with the appropriate warnings, and for the purposes set out in section 7 (Offence of Disobedience).

**9**

The Mechanism shall conduct a continuous review of case law from relevant courts, including the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU). It may also identify best practices and suggest improvements regarding judicial investigations of cases with final judgments, as well as make conclusions and recommendations on the thoroughness and effectiveness of investigations in cases under its mandate, as set out in point 5. In the context of a comprehensive accountability system, this analysis should facilitate progress towards the full achievement of international standards.

**10**

The independent mechanism shall have adequate capacity and autonomy to conduct or commission technical expert reports concerning the incidents under investigation. These reports should be submitted to the judicial authority to offer an independent expert opinion, ensuring that the Mechanism's investigation does not impede the ongoing judicial process. Additionally, the judicial authority may request such reports as part of the technical analysis and evaluation of the case..

**11**

Among its functions, the Mechanism shall be responsible for analysing and assessing the impact of police equipment and weapons on health and fundamental rights, as well as their relevance and necessity, in relation to any potential acquisition by the Ministry of the Interior. This does not preclude the State's responsibility to conduct a thorough evaluation before approving the use and acquisition of any weapon, ammunition, or related equipment. In this context, the mechanism must issue a report on existing tools and weapons in use, considering all technical information, operational justification, manufacturer recom-

mendations, and independent risk assessments and examinations conducted by the Ministry itself. The Government is obliged to provide this information to the mechanism. Furthermore, before any decision to acquire a new weapon or equipment is made, an evaluation report from the mechanism will be required. This report must determine whether the acquisition is relevant and necessary, if it meets international standards for the use of force, and, if applicable, what regulatory limits should be established

**12**

The Mechanism may review and assess the content of current police protocols and procedures to determine their consistency with international human rights standards and, where appropriate, with the manufacturer's recommendations for a weapon or tool. In this regard, it may make recommendations on their use and suitability and provide suggestions for improvement to the competent administrations. In accordance with paragraph 11, the competent Law Enforcement Agencies are obliged to provide all necessary documents.

**13**

Based on the studies carried out in the course of its functions, the Mechanism may systematise the cases collected, recommend best practices, identify patterns of behaviour or recurring actions that do not comply with the Code of Ethics or may violate rights. It shall also play a role in analysing the development of protocols on the use of force, reviewing reports prepared by the relevant internal affairs departments, evaluating police operations and assessing measures taken to prevent the use of force. In addition, the Mechanism may propose corrective or preventive measures to the relevant authorities.

**14**

Annually, the Mechanism shall produce a follow-up report detailing the number of measures implemented, specifying which measures were taken and how they were implemented. This report shall be submitted to the Congress of Deputies of Spain to verify, before the legislative body, the Government's and other institutions' compliance with the commitments made under the Mechanism's mandate. Additionally, the Mechanism may hold multilateral meetings with the various competent administrations to work on the implementation and practical application of the proposed measures. It must be established by law that the institutions mentioned in the Mechanism's reports and resolutions are obligated to respond, providing justification for compliance or non-compliance. The Mechanism should also have the authority to make public the status of compliance with its directives beyond the annual report.

**15**

The territorial parliaments of the autonomous communities of the Basque Country, Navarre and Catalonia, which have extensive powers in the field of security and have their own police forces, must also create an external and independent body that meets the above-mentioned requirements and is adapted to the specific characteristics of each territory and police force. While in Catalonia, this body has yet to be created, in the Basque case a review of the current Control and Transparency Commission shall be carried out, while in the case of Navarre, it shall be ensured that the creation of the Good Practices and Transparency Committee (provided for in the Navarre Police Regional Law) complies with the provisions contained herein.



*Photo: Bru Aguió*

# **BLOCK 2**

**Internal Law Enforcement  
Investigative and  
Accountability Mechanisms**

**16**

It is essential to review the mechanisms and operations of internal affairs units in all Law Enforcement Agencies. It is imperative that these units are staffed by personnel and officers with adequate human rights training and are given more autonomy and hierarchy relative to the rest of the police force to ensure independent and diligent investigations.

**17**

A protocol of cooperation must be established between the Ministry of the Interior and the judicial bodies. This protocol shall ensure that the judicial bodies inform the relevant internal affairs units of all criminal investigations involving law enforcement personnel in the course of their duties. Similarly, internal affairs units must provide all necessary information to the external and independent monitoring and analysis mechanism, once it is established

**18**

A specific channel for reporting institutional violence should be established for citizens and human rights defenders. This channel must allow for timely and appropriate action to preserve evidence. This should not be the same general channel used for other types of reports, given the specificities involved. Such reports should also be acknowledged and dealt with by the current National Human Rights Protection Office in accordance with its competences.

**19**

A transparent working method should be established, with these internal mechanisms being directly accountable to the relevant representative bodies, municipal councils, and ombudsmen. To this end, the Director General of the Police, the Chief Police Officer and the Heads of the Internal Affairs Departments should produce annual reports on their activities. These reports shall be submitted to the respective parliamentary

home affairs committees or municipal councils and published with appropriate confidentiality safeguards. The publications shall include disaggregated data on internal proceedings initiated following complaints of possible rights violations or cases involving moral integrity, death, torture, sexual freedom, injury, excessive use of force, discrimination and illegal detention. They shall also cover the number of complaints, reports, convictions, sanctions and types of sanctions, the number of precautionary measures taken and the outcome of disciplinary proceedings, including the number of officers dismissed from the force because of such incidents, with details of their respective units. This is without prejudice to the establishment of an independent mechanism for monitoring and analysing the actions of the security forces.

**20**

An automatic six-month retention period for recorded images in police stations should be established. It is necessary to ensure that all areas where detainees are held or which are accessible to the public, including police department identification and record sections, are equipped with video surveillance, eliminating blind spots and out of sight areas, while respecting the privacy of persons in custody. It is particularly important that rooms where searches are carried out have image and sound recording. In addition, all police vehicles transporting detainees shall be equipped with a system to detect, record and retain images, including riot control vehicles, which are sometimes used for such transfers. Access to and retention of these images shall be controlled by systems that ensure that they cannot be tampered with or erased and shall be transmitted in full to the independent mechanism when cases fall within its mandate.



**21**

An external audit, conducted by experts and involving human rights, anti-racism and LGBTQ+ organisations, should be carried out to analyse existing mechanisms of police selectivity and discrimination based on ethnic/racial and gender profiles.

**22**

A protocol against ethnic and racial discrimination in law enforcement should be adopted and implemented. This protocol should ensure that practices such as ethnic-racial profiling are prohibited and eradicated.

**23**

Action tools, such as stop, identification, and registration forms, should be incorporated. These forms must include a clear and reasoned explanation of the action taken, the outcome, as well as the ethnic-racial characteristics perceived by the officer and self-identified by the individual concerned, in accordance with the principles of informed consent and confidentiality. These forms shall be made available to both the identified individual and the Secretary of State for Security. Civil society and organisations representing racialised groups shall be involved in the development of these forms.

**24**

An annual public report should be produced, detailing all results in a territorialised manner. This report must allow for the evaluation of necessary changes if the results indicate that ethnic-racial profiling has occurred.

**25**

Police transparency policies should be in line with international standards, ensuring that use of force protocols is published in sufficient detail to allow the public to be informed and to scrutinise their application. National security should not generally restrict access to information about police actions.

**26**

Necessary changes should be made to the uniforms of police officers, particularly those involved in intensive use of force —such as riot police—, to ensure that identification numbers are easily memorable and visible —in terms of typography, numbering, and size— from all angles. The identification number should be clearly displayed on the front, back of visible parts of the uniform and on the sides of the helmet.

**27**

A review of all police equipment and weapons should be undertaken to assess their compliance with international human rights standards, with those that do not meet these standards being withdrawn. For those that remain in use, their traceability must be ensured through the serialisation of bullets and the preparation of comprehensive reports when potentially lethal weapons are used. As long as there is no external and independent mechanism that can carry out this analysis, these issues should be debated in the Committee on the Home Affairs of the Spanish Congress of Deputies, in municipal plenary sessions and, where appropriate, in the parliamentary committees of the Autonomous Communities with jurisdiction. The Ministry of the Interior must provide all technical information on the weapon, including the manufacturer's recommendations and any independent analysis or research carried out by the Ministry itself.



*Photo: Álvaro Minguito*

# **BLOCK 3**

**Judicial Investigations  
and Support for Victims of  
Police Actions**

**28**

A specialised prosecution service for institutional violence should be established to oversee all trials involving any conduct or practice within Law Enforcement Agencies where there may have been a violation of rights. This service should deal with cases of death, attacks on moral and physical integrity, torture, violations of sexual freedom, injuries, excessive use of force, discrimination and/or unlawful detention committed by law enforcement personnel. The service should be proactive in these cases, defending the rights of the victims.

**29**

The annual report of the Public Prosecutor's Office should include, under the section "Issues of Specific Interest," detailed information on procedures related to torture and other cruel, inhuman, or degrading treatment. The report should provide comparative data between the number of complaints filed by victims of crimes related to torture and mistreatment (as defined by the Spanish Criminal Code, including crimes of death, torture and mistreatment, crimes against moral integrity, sexual violence, injuries, unlawful detention, and failure to prevent torture by public officials and authorities) and the number of investigations and prosecutions initiated by the Prosecutor's Office concerning these crimes. This section should also include disaggregated data on requests for the application of aggravating circumstances due to discrimination in relation to the mentioned crimes.

**30**

A specific and free legal aid system for institutional violence should be established, with professionals specialised in this field, to deal with cases of death, attacks on moral integrity, torture, violations of sexual freedom, injuries, excessive use of force, discrimination and unlawful detention committed by public offi-

cials or any other person acting in a public capacity, whether at their instigation or with their consent or acquiescence.

**31**

Specific training should be provided to judges, prosecutors, and legal aid lawyers, as well as other legal professionals, on human rights, principles, international standards on the use of force, and how to ensure thorough and effective investigations. This training should also cover the functioning of Law Enforcement Agencies and the conduct of law enforcement officials.

**32**

In response to repeated calls from the United Nations to the Spanish State, the Government of Spain should incorporate the explicit definition of the crime of torture as contained in the [Convention against Torture](#) and recognise the arbitrary or abusive use of force as a crime, in line with Principle 7 of the [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#).

**33**

International law and the absolute prohibition of torture should be respected by not granting pardons to law enforcement officials convicted of cases involving death, attacks on moral integrity, torture, violations of sexual freedom, injuries, excessive use of force, discrimination, and unlawful detention.

**34**

Law 4/2015 of 27 April on the Status of Victims of Crime should be amended to specifically address compensation for victims of death, attacks on moral integrity, torture, violations of sexual freedom, injuries, excessive use of force, discrimination and/or unlawful detention by law enforcement personnel, and to establish ex officio mandatory procedural measures.

**35**

Specific public assistance for victims of torture and ill-treatment should be established and funded to ensure a mechanism for sustainable and economically independent comprehensive rehabilitation, in accordance with the [\*Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power\*](#).

**36**

A specific scale of compensation should be established for victims of torture and ill-treatment, considering the specific physical and psychological damage resulting from such attacks.

## Description of the Members of the Expert Panel:

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