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**Alfredo Sánchez Hernández, doctor of Business Organization**

## **CURRENT SITUATION OF OCCUPATIONAL HAZARD PREVENTION IN THE SPANISH POLICE FORCE**

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**Alfredo Sánchez Hernández**  
Doctor of Business Organization  
*alfredo.sanchezh@urjc.es*



Summary: Occupational hazard prevention has been described by many authors as an unresolved issue for the Security Forces of the Spanish State. It is a problem that affects all Police Forces, regardless of whether they depend on national, regional or local authorities, and there are differences between Forces. This article aims to highlight the current situation of these Forces and propose solutions to counter the indifference of the Authorities, which may cause damage to the health of workers.

## Introduction

Almost 25 years have passed since the transposition of Directive 89/391/EEC of the Council of 12<sup>th</sup> June 1989 on the application of measures to encourage improvements in the safety and health of workers at work, through Law 31/1995 of 8<sup>th</sup> November on occupational hazard prevention. It is now time to assess the effectiveness of this transposition and whether (in the case of Security Forces) it has been carried out, as well as identifying its potential flaws.

The road has been long, and unfortunately, not very productive. Until 2006, and as a result of a ruling by the European Courts - Case C-132/04, ECJ\2006\12 of 12<sup>th</sup> January - regulations on occupational hazard prevention were not applied to police forces, and, even then, not all have seen regulations developed in relation to this matter. Even today, application of the Law must be defined by the Courts.

We say this, because although in 2006 there were regulations for State Security Forces in place, these derived from the process of the aforementioned complaint before the European Courts, Case C-132/04, which led the State to attempt to demonstrate that there was such a development regulation.

This article will focus on the prevention regulations that affect police groups, indicating some characteristics of each, and focusing on the local police collective.

## Everything covered?

We could say that there were three key moments in terms of occupational hazard prevention for the Security Forces.

Firstly, Council Directive 89/391/EEC of 12<sup>th</sup> June 1989 on the application of measures to encourage improvements in the safety and health of workers at work, which contains the general legal framework in which the community prevention policy operates.

Next, Law 31/1995, of 8<sup>th</sup> November on occupational hazard prevention, which transposes Directive 89/391/EEC to the Spanish legal system and is the basic framework of guarantees and responsibilities to establish an adequate level of protection of the health of police workers against the risks arising from working conditions.

Finally, Judgment ECJ\2006\12 Case C-132-04 declared the breach by the Kingdom of Spain of its obligations under Directive 89/391/EEC, with respect to Security Forces, having not fully adapted its internal legal system to articles 2, paragraphs 1, 2, and 4 of that directive.



These three aspects make the Spanish State active in the creation of specific norms for certain Forces that were outside the application of the Prevention Law:

- RD 179/2005 of 18<sup>th</sup> February on occupational hazard prevention in the Civil Guard.
- RD 2/2006 of 16<sup>th</sup> January which establishes rules on occupational hazard prevention in the activity of officials of the National Police Force.
- RD 1755/2007 of 28<sup>th</sup> December of 28<sup>th</sup> December [sic] regarding occupational hazard prevention of military personnel of the Armed Forces and of the organization of prevention services of the Ministry of Defence, also applicable to members of the Civil Guard who provide their services within the scope of the Ministry of Defence.
- RD 67/2010 of 29<sup>th</sup> January on adaptation of the legislation of the Prevention of Occupational Hazards to the General Administration of the State, modified by Royal Decree 1084/2014 of 19<sup>th</sup> December of application to members of the Civil Guard and officials of the National Police Force who do not present exclusive characteristics of police and security activities, as well as customs guard personnel and operational civil protection services in the same circumstances.

However, there is a lack of specific regulations applicable to prevention within local and regional police, which depend on regional regulations.

The only Autonomous Community that proposes specific measures for its police is Navarre, through Regional Decree 55/2010 of 13<sup>th</sup> September, which establishes rules on occupational hazard prevention in the activity of officials of the Regional Police of Navarre.

## A risk profession within the Security Forces

Another important difference between State Security Forces (National Police and Civil Guard) and the rest of the police (autonomous and local) is the Social Security Protection Scheme, which, in some way, affects the early retirement of police officers.

In the case of the Civil Guard and the National Police, they belong to a Special Social Security Scheme for civil servants of the State, which in turn is divided into two complementary coverage mechanisms:

- Regime of Mutualismo Administrativo, managed by the Spanish Civil Service Benefit Society (known by its Spanish acronym MUFACE).
- The Passive Class Scheme, which has the power to recognise passive rights and to grant passive class benefits (retirement, widowhood, orphanhood, and in favour of family members).

This coverage mechanism is not available for those with the status of officials of the State Civil Administration since 1<sup>st</sup> January 2011, but are necessarily included in the General Social Security Scheme for the exclusive purposes of their passive rights: members of the National Police and Civil Guard Force that entered service prior to this date are included in the Passive Class Scheme, and the rest in the General Regime.

Decree Law 13/2010 of 3<sup>rd</sup> December, regarding actions in the fiscal, labour and liberalisation fields to promote investment and job creation, includes - in article 20 - the integration of new members of the National Police and Civil Guard in the General Social Security Scheme, instead of the Passive Class. This implies that it is integrated for the purpose of pensions in the General Social Security Scheme, and entails the end of early retirement, which means that ordinary, voluntary retirement within this Scheme is possible at 60 years old with 30 years of service, in the terms established in the Royal Legislative



Decree 670/87 of 30<sup>th</sup> April, which approves the consolidated text of the Passive Class Law of State, in its article 28.2b, but will remain affiliated with the MUFACE for health, pharmaceutical and social benefits.

This change means that since 2011, early retirement of members of this group was the same as for the rest of the workers under the General Scheme.

For those who have belonged to the new Scheme since 2011, Royal Decree 1087/2015 of 4<sup>th</sup> December on the procedure, conditions, and scope of the recognition of permanent disability, death, and survival benefits for Armed Forces and State Security Forces personnel, derived from their inclusion in the General Social Security Regime, which develops the third transitory provision of Royal Legislative Decree 8/2015 of 30<sup>th</sup> October, which approves the consolidated text of the General Social Security Law (hereinafter LGSS).

It is important to know that Article 3 of this RD, material scope of application, states:

1. The coverage and recognition of benefits for permanent disability, death, and survival of the personnel referred to in the previous article will be carried out in accordance with the regulations of the General Social Security Regime, with the particularities that are regulated in this royal decree.
2. However, personnel of the Armed Forces and of the Civil Guard are excluded from the protection granted by the General Social Security Scheme, corresponding to partial permanent disability, permanent non-disabling injuries, and the complement of great disability referred to Article 196.4 of the consolidated text of the General Law of Social Security, approved by Royal Legislative Decree 8/2015 of 30<sup>th</sup> October. For such contingencies, the protective action included in the specific regulations of the Special Social Security Scheme of the Armed Forces will be maintained.
3. National Police personnel are also excluded from protection of partial permanent disability, non-invalidating permanent injuries, and the invalidity supplement referred to in the precept mentioned in the previous section. For such contingencies, the protective action included in the specific regulations of the Special Social Security Scheme of Civil Officials of the State will be maintained.

This means that, for military personnel and members of State Security Forces, the extraordinary pensions scheme included in the Passive Class of State regulations, as well as certain specificities related to medical courts for the declaration of incapacity or nullity of the official and with it, despite belonging to the General Scheme, the permanent disability and death and survival management system is different to that of other police officers, according to each Autonomous Community and local government.

In the case of police from Autonomous Communities and local governments, they belong to the General Social Security Scheme, like the majority of employed persons.

This Scheme is regulated by the aforementioned LGSS.

Article 206.1 of the LGSS sets out a series of conditions for the advance in retirement age of certain groups:

*“1. The minimum age of access to the retirement pension may be reduced by royal decree, at the proposal of the head of the Ministry of Employment and Social Security, in groups or professional activities whose work is of an exceptionally painful, toxic, dangerous, or unhealthy nature, and associated with high morbidity or mortality rates, provided that the affected workers accredit in the respective profession or work the minimum activity established.*

*For this purpose, the general procedure that must be observed to reduce the age of retirement will be established by regulation, which will include the prior studies on accidents in the sector, pain, danger and toxicity of working conditions, their impact on the processes of labour incapacity of the workers, and the physical requirements of the activity.”*



Professional groups or activities whose work is recognized by the Ministry of Work, Migration, and Social Security as of a particularly painful, dangerous, toxic, or unhealthy nature and with high rates of morbidity and mortality - and therefore, recognised as risk professions - are:

- Workers within in the Mining Statute (RD 2366/1984 of 26th December).
- Airline personnel (RD 1559/1986 of 28th June).
- Railway workers (RD 2621/1986 of 24th December).
- Artists.
- Bullfighting professionals.
- Firefighters within public administrations and organizations (RD 383/2008 of 14th March).
- Members of the Ertzaintza Force (Autonomous Police of the Basque Country, Additional provision 20, RDL 8/2015, LGSS).
- Local Police (Royal Decree 1449/2018 of 14th December).

Although it seems incongruous, despite performing similar tasks, not all Police Forces are recognised as a risk profession, and therefore among different Police Forces there are differences regarding the age of retirement:

- National Police and Civil Guard:
  - If [an officer] began work before 01/01/2011, they can retire at 60 with 30 years of service, taking into account percentages for the calculation of the pension based on the years of contribution.
  - If they began after 01/01/2011, their retirement age is that which has been established for workers within the General Social Security Scheme who do not have their role recognised as a risk profession.
- Autonomous Police:
  - Members of the Mossos d'Esquadra (Autonomous Police of Catalonia), Regional Police (Autonomous Police of Navarre) and Canary Island Autonomous Police are not recognized as employees of risk professions, therefore do not have the right to advance in retirement age. As such, their retirement age is that established for the workers of the General Social Security Scheme who do not have their role recognised as a risk profession.
  - Ertzaintza (Autonomous Police of the Basque Country). Their role is recognized as a risk profession, so they have the right to early retirement under the terms established in article 206.1 of Royal Legislative Decree 8/2015 of 30<sup>th</sup> October, which approves the consolidated text of the General Law of Social Security.
- Local Police:
  - Their role is recognized as a risk profession, so they have the right to early retirement under the terms established in article 206.1 of Royal Legislative Decree 8/2015 of 30<sup>th</sup> October, which approves the consolidated text of the General Law of Social Security.

In terms of occupational hazard prevention, RD 39/1997 of 17<sup>th</sup> January, which approves the Regulation of Prevention Services, in its Annex I, establishes a series of activities which require greater protection, and which require business owners to create their own prevention services. These are activities associated with risk professions, among which police activity is not de facto, even though both Ertzaintza and local police already have such recognition, and therefore should be subject to greater protection.

In the case of the Community of Madrid, the new Law 1/2018 of 22<sup>nd</sup> February on the Coordination of Local Police of the Community of Madrid, establishes in article 50 that in each local government with a Local Police Force, a joint occupational health commission will be established that will participate in the inspection and control of compliance with safety and hygiene measures, both by the local corporation and by local police officers.



## Considerations on occupational hazard prevention of the Police Forces in Spain

### National Police

The National Police Force is established in all provincial capitals and in other populations determined by the Government (usually populations of more than 50.000 inhabitants), and their functions are established in Law 2/86 of Security Forces, as are the rest of the police bodies within this study.

It is made up of 63.630 members, 54.545 of whom are men, and 9.085 are women<sup>1</sup>.

The adoption of prevention is carried out by integrated prevention services where both a Central Body for the Prevention of Occupational Hazards and a Peripheral Prevention Body exist, dedicated to preventive tasks of personnel and facilities.

The reference regulation is RD 2/2006 of 16<sup>th</sup> January, which establishes rules for the prevention of occupational hazards in the functions of members of the National Police Force.

Health surveillance is voluntary, unless a rule establishes another provision for certain cases, or when it is necessary for the detection of conditions that may cause serious risk to the officials themselves - or to citizens -, in which case, surveillance will be mandatory, and representatives of the workers will be informed.

There are delegates for prevention.

There are Health and Safety Committees, as per the terms established in RD 67/2010, modified by RD 1084/2014.

Royal Decree 2283/1985 of 4.12 regulates the issuance of psychophysical aptitude reports for obtaining and renewing licenses, certificates and weapon permits (M. Int., BOE 10.12.1985, rectified 21.1.1986), modified by the Order of 28.5.1986 (M. Int., BOE 10.6.1986). Annex I of the RD 2283/1985, illnesses or disorders that may cause the refusal of licenses, certificates and weapon permits.

### Civil Guard

The Civil Guard is implemented throughout the whole national territory, and, in municipalities with less than 50.000 inhabitants. Their functions are established in Law 2/86 of Security Forces.

It is made up of 74.689 members, of whom 67.134 are men, and 7.555 are women<sup>2</sup>.

The prevention bodies are regulated by ORDER INT/724/2006 of 10<sup>th</sup> March, which regulates the occupational hazard prevention bodies within the Civil Guard.

The reference regulation is RD 179/2005 of 18<sup>th</sup> February, regarding occupational hazard prevention within the Civil Guard.

There was an Advisory Council of staff in the Civil Guard Force, where proposals and suggestions about prevention had to be accepted by members of the Civil Guard. Law 11/2007, regulating the rights and duties of members of the Civil Guard, replaces the Advisory Council with the Civil Guard Council.

There are not delegates for prevention. Occupational hazard prevention falls to the chain of command, and they lack the rights to participate and consult.

Health examinations are not mandatory.

<sup>1</sup> Statistical Bulletin of personnel at the service of Public Administrations (July 2018)

<sup>2</sup> Statistical Bulletin of personnel at the service of Public Administrations (July 2018)



Representatives of the Civil Guard have appealed to the European Courts to demand compliance with regulations on prevention, and have had several judgements give them reason in their claims<sup>3</sup> :

- Judgment of 12th January 2006, Case C-132/04. Reason: Non-application of the regulations on occupational hazard prevention by the Civil Guard and Military.
- Judgment of 20th May 2010, Case C-158/09. Reason: Failure to comply with the Civil Guard Directive on the organisation of working time (working day).
- Subject NIF 2009/3400. Reason: Occupational Hazard Prevention Offices do not exist within the Civil Guard. Following the request by the European Commission, their introduction began, which halted the claim.
- Case NIF 2011/14047. Reason: Again, the regulations on working hours had been violated, despite the 2010 ruling. At the end of 2014, a new General Work Order was published which suspended the claim.
- Case EU-PILOT 5711/13/EMPL. Reason: Lack of definition in Civil Guard legislation regarding night-shift workers, and a lack of occupational hazard assessment. At the request of Europe, the Civil Guard regulated the role of nightshift workers, and agreed with the European Commission to assess occupational hazards.
- Case EU-PILOT 7307/15/EMPL. Reason: absence of prevention delegates within the Civil Guard. The Civil Guard recognises the role of the prevention delegate, but they have no power within internal regulations.

As an example of the precariousness in which the Civil Guards have to work, in the municipality of Conil, in Cádiz, business owners in Conil bought a dozen motorcycle helmets so that officers can patrol the city centre this summer<sup>4</sup> .

More worryingly, young Civil Guards just out of the academy, entering their practical-experience year, immediately encounter the reality of the Civil Guard as they are not issued individualised bulletproof vests. Instead, they must use old, used, dirty vests that are not their size.<sup>5</sup> .

## Ertzaintza

As an autonomous police force, it only operates in the Autonomous Community of the Basque Country.

Its functions are established by Law 2/86 of Security Forces, although they have specific regulations: Law 4/1992 of 17<sup>th</sup> July regarding the Police of the Basque Country, which has been amended five times; and Law 15/2012 of 12<sup>th</sup> June on the organisation of the public security system of Euskadi, that broke away from Law 4/92 on the regulation of common aspects of public security as a whole, such as the regulation of the Basque Academy of Police and Emergencies, coordination of local police, and police cooperation mechanisms.

The Force has 7, 262 members, of whom 6, 401 are men and 861 are women<sup>6</sup>.

It does not have specific regulations on occupational hazard prevention, so Law 31/95 on Occupational Hazard Prevention should be applicable. As no exemptions have been established, it is applicable in full.

So far, the only allusions to occupational hazard prevention were established in the Regulatory Agreement on the working conditions of Ertzaintza personnel, which has been renewed in recent years, and which refers to certain concepts:

- Suitable prevention service (in the terms established in RD 39/1997 of the Prevention Services Regulation).
- Health and safety committee (art. 64).
- Prevention delegates.

<sup>3</sup> Data obtained from AUGC 2015

<sup>4</sup> <https://www.augc.org/news/2019/7/8/social-copayment-of-new-material-to-get-more-civil-guards> - in the village

<sup>5</sup> <https://www.augc.org/news/2019/7/5/civil-guard-internes-discover-the-severe-lack-of-equipment-in-the-force>

<sup>6</sup> Statistical Bulletin of personnel in Public Administration service (July 2018)



- Health surveillance (voluntarily to begin with).
- PPE, (personal protective equipment).

Regarding harassment, the Order of 13<sup>th</sup> November 2018 was approved by the Security Minister. It deals with the regulation of preventative measures and of the course of action in cases of bullying in the workplace, sexist harassment or bullying because of one's sex, as well as other forms of workplace harassment within the Ertzaintza, and modifies the Order of 10<sup>th</sup> September 2007.

On 9<sup>th</sup> July 2019, Law 7/2019 of 27<sup>th</sup> June - on the fifth modification of the Basque Country Police Law - was published in the Official Gazette of the Basque Country. It intends to pay close attention to the administration's obligation to ensure the psychophysical conditions, occupational health monitoring, and occupational hazard prevention of police officers.

It is committed to employing complementary social protection mechanisms in cases of temporary incapacity as a result of injuries or sickness arising from illness or professional accidents occurring in service, or as a consequence thereof.

Law 7/2019 (art. 79) states:

- The execution of contracts or collaboration agreements with medical professionals, or with public or private healthcare entities.
- Development of a plan for occupational hazard prevention to determine the way in health monitoring of police officers will be carried out.
- Occupational hazard prevention must be included in the set of tasks throughout the assessment of occupational hazards. The implementation of corrective measures, and the implementation and application of a plan for occupational hazard prevention, will take into account a series of risk factors from its own records.
- Specific action protocols will be established for pregnant personnel.
- There will be a specific prevention service.
- The obligations of employees of the Basque Country Police Force, regarding occupational hazard prevention, are established.
- The representation and participation scheme will comply with the principles and criteria within Law 31/95 on Occupational Hazard Prevention.
- The roles and election of prevention delegates are determined.
- There will be a Health and Safety Committee as a joint participation body.
- Establishment of a social protection scheme.

Curiously, in 2003, the first General Plan for the Prevention of Occupational Hazards was approved by the Basque Government, whose scope of applicability is the entire Autonomous Administration and its autonomous bodies; leaving behind Ertzaintza and its personnel, workers of auxiliary services, or non-university teaching staff, with the understanding that all of them should have their own Prevention Plan.

## **Mossos D'Esquadra**

As an autonomous police force, it operates only in the Autonomous Community of Catalonia.

Its functions are established by Law 2/86 of Security Forces, although they have specific regulations: Law 10/1994 of 11<sup>th</sup> July, on the Police of the Generalitat "Mossos d'Esquadra".

The Force has 16, 911 members, of whom 13, 295 are men, and 3, 616 are women<sup>7</sup>.

Regarding risk prevention, there is no specific regulation for this Body. We must therefore understand that following the 7 Statistical Bulletin of personnel in Public Administration service (July 2018)



ruling of the European Courts of 2006, Directive 89/391 - transposed into the Spanish legal system by Law 31/95 – applies, as do its development decrees.

Curiously, Decree 243/2007 on the structure of the Department of Home Affairs and the Mossos d'Esquadra establishes, in article 136, that a series of units depend on the person responsible for the General Directorate of the Police, including the Occupational Health and Hazard Prevention Coordination Service (g).

The following functions, in coordination with the General Directorate of Occupational Health and Hazard Prevention of the Directorate of Services, correspond to the Unit of Occupational Health and Hazard Prevention, as a functional area:

- a. Collaborate with the Occupational Hazard Prevention Service of the Department in carrying out initial health examinations, examinations for prolonged sick leave, [examinations] at specific times, and adapt the workplace when required due to a change of tasks.
- b. Collaborate with the different occupational hazard prevention units of the Department in the execution of related plans and programs in their territorial scope.
- c. Manage the measures derived from risk assessments and emergency plans of the Department's centres in the corresponding territorial area.
- d. Promote healthy habits.
- e. Perform first aid and emergency care.
- f. Perform occupational pathology care.
- g. Follow up on occupational accidents and collaborate in the investigation of these when the Occupational Hazard Prevention Service requires.
- h. Collaborate in health campaigns.
- i. Issue medical reports and monitor those on sick leave.
- j. Promote and participate in training, information, study, and outreach activities surrounding occupational hazards in their field.
- k. Take responsibility for business coordination in preventive matters in its territorial scope.
- l. Any other entrusted task.

## Canary Police

As an autonomous police force, it operates within the Autonomous Community of the Canary Islands.

Its functions are established by Law 2/86 of Security Forces, although they have specific regulations: Law 2/2008 of 28<sup>th</sup> May of the General Force of the Canary Police; and Decree 77/2010 of 8<sup>th</sup> July, which approves the Regulation of organization and operation of the General Canary Police Force.

The Force has 71 members, of whom 66 are men, and 5 are women<sup>8</sup>.

In terms of prevention, they do not have specific regulations, although Law 2/2008 alludes to medical examinations when the authority deems it appropriate, in order to determine whether or not the physical or psychological conditions or illnesses of the employee are included in the medical incompatibilities table for the provision of ordinary service, and whose medical opinion will be the basis for determining the move into a secondary activity, or to open an incapacity record, or start the process of compulsory retirement (art. 58).

Decree 77/2010, in art. 53 et seq., establishes a series of rights in matters of health and safety, and occupational hazard prevention, including:

<sup>8</sup> Statistical Bulletin of personnel in Public Administration service (July 2018)



- Right to protection against occupational hazards.
- Representation.
- Training.
- Maternity protection measures.
- Health surveillance
- Right to privacy
- Obligations of the members of the Body regarding occupational hazards, health, and safety.
- Allocate a section to secondary activity.

## Navarre Regional Police

As an autonomous police force, it operates within the Autonomous Community of Navarre.

Its functions are established by Law 2/86 of Security Forces, although there are specific regulations: Regional Law 23/2018 of 19<sup>th</sup> November on the police of Navarre.

The Force has 1, 054 members, of whom 965 are men, and 89 are women<sup>9</sup>.

With regards to prevention, it is the only autonomous police force that has specific regulations: Regional Decree 55/2010 of 13<sup>th</sup> September, which establishes regulations on occupational hazard prevention in the activity of officials of the Regional Navarre Police Force.

## Local Police

This refers to police that depend on local governments and have their scope of action assigned by the Spanish Constitution, although the Autonomous Communities have assumed the tasks of coordination and training through the corresponding Coordination Laws.

Local Police Forces exist in 2, 012 of the 8, 110 Spanish municipalities.

In January 2018, the approximate number of local police officers in the country was 72, 100<sup>10</sup>, but this number has been considerably reduced by the approval of Royal Decree 1449/2018 of 14<sup>th</sup> December, which establishes the reduction coefficient of the retirement age within local police working for local Administration entities.

The number of women in Local Police forces is unknown.

Their roles are established by Law 2/86 of Security Forces, although there are 17 coordination laws approved by the autonomous parliaments; 2 collective agreements by the autonomous cities of Ceuta and Melilla; Regulations for the development of Coordination Laws, uniformity, access, decoration, and the operation of training academies; Orders; Circulars; collective Municipal agreements; and other public functions applied to the local police.

This implies a great regulatory dispersion, so this article tries to somehow clarify how Coordination Laws regarding prevention are distributed, if they make a direct reference to the Law of prevention, if there is reference to another norm, if the reference is to Law 2/86, or if there is no reference or referral of the norm regarding prevention.

In the first group of Laws that refer directly to Law 31/95 on occupational hazard prevention, we find:

<sup>9</sup> Statistical Bulletin of personnel in Public Administration service (July 2018)

<sup>10</sup> Community of Madrid Report January 2018)

- LCOP (Public Works and Concessions Law) Castilla y León 9/2003, 8th April (as amended by Law 13/2006), art. 38.3 “in matters of Occupational Health, the provisions of the Spanish LPRL Occupational Hazard Law and other provisions applicable to the matter shall apply”.
- LCOP Galicia 4/2007, 20th April, art. 50 “they will also have the right to the promotion of health and safety in the development of their function and to occupational hazard prevention in the terms established by the specific legislation on the subject.
- LCOP Valencia 7/2017, art. 80.5 states the provisions of current legislation on occupational hazard prevention will apply.
- LCOP Balearic Islands 4/2013, 17th July, modif. Law 11/2017 of 20th December, art. 48.3 and 69 and Decree 75/2003 of 12th May, art. 40, 41 and 42.
- LCOP Madrid 1/2018 of 22nd February, art. 50.6.
- LCOP Extremadura 7/2017, art. 34.5.
- LOCP Euskadi, 4/1992 of 17th July, modif. Law 7/2019 of 27th June).

In the second of the groups, referral to other regulations, we find:

- LCOP Navarre 8/2007, 23rd March, section 10, art. 56 refers to Regional Decree 55/2010, which establishes norms for occupational hazard prevention in the activity of officials of the Regional Police Force of Navarre.

In the third group, referral to Law 2/86, therefore implies a referral to the Occupational Hazard Prevention Act:

- LCOP Cantabria 5/2000, 15th December, arts. 31 and 32, letters k/and l).
- LCOP Canary Islands 6/1997 of 4th July, final provision 4.
- LCOP Asturias 2/2007, 23rd March, art. 26.g.
- LCOP Catalonia 16/1991 (updated by Law 31/2008, art. 42, 43 and 44 and Law 7/2003, art 16).
- LCOP Murcia 4/1998, 22<sup>nd</sup> July, art. 31.

In the fourth group, the coordination laws that do not refer to any alternative are:

- LCOP Aragón 8/2013 of 12th September, art. 32 Occupational Health.
- LCOP Castilla La Mancha 8/2002 of 23rd May refers to the national law in relation to clothing.
- LOCP Andalucía, 13/2001 of 11th December.
- LOCP La Rioja, 5/2010 of 14<sup>th</sup> May.

Given this perspective, the Spanish union CCOO filed a lawsuit before the European Courts (CHAP [2014] 01177), alleging a breach by the Kingdom of Spain of its obligations under Council Directive 89/391/EEC of 12<sup>th</sup> June 1989 on the application of measures to encourage improvements in the safety and health of workers at work, in relation to local police forces.

The complaint mentions the existence of different national regulations on the coordination of the local police of different Autonomous Communities in relation to health and safety in the workplace, and that this has created uncertainty in the application of the standards.

It was also claimed that these differences in national legislation on health and safety in the workplace, applicable to local police forces, create situations of inequality among workers in different autonomous communities.

The conclusions of the lawsuit that determine the degree of application of the rule to this group from the European



Commission state:

- There is no evidence that the national legislation on occupational health and safety, applicable to the Local Police Forces of Autonomous Communities, excludes workers of these police forces from the scope of Directive 89/391/EEC.
- In fact, the information does not allow us to conclude that there is a national level of legislation applicable to the local police forces of Autonomous Communities mentioned above, dated before that of national legislation, which transposes the minimum requirements for Directive 89/391/EEC, which prevents itself from applying to the local Spanish police forces the EU requirements on OSH, incorporated into the national legal system through Law 31/1995.
- After analysing all the available information, it seems that, at a national level, **the legislation applicable to the Local Police Forces of Autonomous Communities is the national legislation by which Directive 89/391/EEC is incorporated into the national system, namely, Law 31/1995.**

Although the European Commission's resolution may be negative for the interests of the Local Police forces, what it makes it clear is that it is applicable to these Forces in the absence of specific regulations, Law 31/1995, and its development standards.

## Conclusions

Making a general analysis of the current situation of the Spanish Security Forces, we can say that 236, 618 professionals, in most cases, suffer from a series of discrepancies:

- Lack of prior training in occupational hazard prevention before entering the Police Force.
- Lack of post or professional training, namely, that there is no training within Police Academies on occupational hazard prevention, and no courses related to prevention once qualified, apart from basic courses to perform daily and ordinary work.
- Lack of inclusion of prevention in all work processes.
- Lack of action protocols for risks that may occur during service.
- Lack of personal protection equipment - not only vests; anti-cut gloves and motorcycle uniforms, etc., must also be included.
- Lack of health monitoring.
- Lack of investigation into accidents in order to find out the causes, and subsequent proposal of preventive measures so that they do not occur again, carrying out these investigations only with the purpose of sanctioning the causes.
- Lack of psychosocial assessments.

It is also important to highlight the lack of recognition of the job as a risk profession for some police officers.

We have also been able to confirm the absence of OSHAS 18001 or ISO 45001 certifications in public administrations.

Looking ahead, it seems clear that it is important to have a common framework in occupational hazard prevention.

It is important to implement the obligation to investigate all occupational accidents involving members of the Police Force.

Finally, it seems necessary to establish a system that leads to equal rights among all Security Forces, as it appears clear that state and regional regulations do establish equality in terms of obligations.





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