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Annex II

Preliminary bill organizing the National Civil Police

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Annex II

The Legislative Assembly of the Republic of El Salvador

Whereas

In accordance with paragraph 17 of article 168 of the Constitution, it is the responsibility of the President of the Republic: "To command, organize and maintain the National Civil Police to preserve peace, tranquillity, order and public security, in both urban and rural areas, adhering strictly to respect for human rights and under the control of civilian authorities. The National Civil Police and the armed forces shall be independent and shall be placed under the authority of different ministries",

The establishment of the National Civil Police must be accompanied by an act organizing and regulating it institutionally,

Hereby Decrees

Title I

General Provisions

Article 1

The National Civil Police of El Salvador shall have the mission of protecting and safeguarding the free exercise of the rights and freedoms of individuals, preventing and combating all types of crimes and maintaining internal peace, tranquillity, order and public security throughout the national territory.

There shall be no other armed police body with national jurisdiction.

Article 2

The National Civil Police shall be an armed institution which is civilian and professional in nature and is free from all partisan activity. Its structure and organization shall be hierarchical, under the supreme command of the President of the Republic, who shall exercise such command through the Minister of the Interior and Public Security and the Vice-Minister for Public Security.

Article 3

Under the authority of the Minister and of the Vice-Minister for Public Security, the day-to-day command of the police shall be exercised by the Director-General of Police. The Director-General shall direct and monitor the implementation of the public security policy formulated by the Government. He shall also be the supreme administrative authority of the National Civil Police.

The Director-General of Police shall be appointed by the President of the Republic. He may be dismissed by resolution of the Legislative Assembly for serious violations of human rights, as provided in the Constitution.

Article 4

Under the authority of the Director-General, the General Inspectorate of Police shall be responsible for monitoring and supervising the activities of the operational services of the force.

The Inspector General shall be appointed by the Director-General, in consultation with the Attorney-General of the Republic and the National Counsel for the Defence of Human Rights.

The General Inspectorate shall comprise a Monitoring Division, which shall have the function of monitoring all police services, and a Disciplinary Investigation Division, which shall have the function of investigating breaches of discipline by police officers.

Article 5

The Director-General shall be assisted by a Deputy Director-General for Operations and a Deputy Director-General for Management.

The Deputy Director-General for Operations shall be responsible for implementing and coordinating the activities of central divisions and departmental police delegations.

The Deputy Director-General for Management shall be responsible for implementing and coordinating the administrative and logistical support activities of the police.

Article 6

The National Civil Police shall have the following central divisions: Public Security; Criminal Investigation; Frontiers; Finance; Arms and Explosives; Protection of Eminent Persons; Environment; and others to be established by order of the President of the Republic. Chiefs of division shall be appointed by the Director-General of Police, on the proposal of the Deputy

Director-General for Operations. In the case of the Chief of the Criminal Investigation Division, prior consultation shall also be required with the President of the Judiciary and the Attorney-General of the Republic. In the case of the Chief of the Finance Division, the prior approval of the Minister of Finance shall be required.

Article 7

The Public Security Division shall be responsible for the maintenance of tranquillity, order and public security.

Article 8

Under the functional control of the Attorney-General of the Republic, the Criminal Investigation Division shall be responsible for investigating criminal acts and gathering evidence to identify the perpetrators of such acts. It shall also carry out investigations and other activities within its field of competence as required by the Attorney-General of the Republic, judges and courts.

Article 9

The Frontiers Division shall be responsible for monitoring and supervising the admission, departure, activities and, where necessary, expulsion of aliens and the migration of nationals and for the monitoring and supervision of public and private national airports, without prejudice to the constitutional duty of the armed forces to defend the integrity of the territory of the State.

Article 10

Under the functional control of the Ministry of Finance, the Finance Division shall be responsible for preventing and combating infringements of tax law, without prejudice to the fiscal oversight or other functions performed by that Ministry, for which it shall serve as police support organ. It shall have two departments: customs and taxes.

The Finance Division shall be the only police organ with competence in the areas of customs and taxes. Consequently, following its entry into operation, all provisions and structures incompatible with this principle shall cease to exist.

Article 11

The Arms and Explosives Division shall be responsible for preventing and combating infringements of the constitutional and legal regime on the manufacture, import, export, trading, possession and bearing of weapons, ammunition, explosives and similar articles.

Article 12

The Division for the Protection of Eminent Persons shall be responsible for protecting and escorting senior State officials; foreign dignitaries visiting the country; and other persons on the basis of decisions of the Government or of the courts; and for guarding public buildings and the offices of diplomatic missions or international organizations.

Article 13

Under the functional control of the Ministry of Agriculture and Livestock, the Environment Division shall be responsible for preventing and combating crimes and misdemeanours against the environment.

Article 14

There shall be one police delegation per department and one metropolitan delegation for the city of San Salvador, to which all police units of the corresponding district shall report. The organizational structure of delegations shall be adapted to the needs and characteristics of each department.

Chiefs of delegations shall be appointed by the Director-General of Police on the proposal of the Deputy Director-General for Operations, who shall be their direct supervisor. The headquarters of delegations shall be located in departmental capitals.

Within each delegation, there shall be subdelegations and police posts as required for local needs.

Article 15

The Office of the Deputy Director-General for Management shall be responsible for implementing and coordinating the administrative and logistical support activities of the police. It shall consist of the following divisions: Infrastructure Division; Data-Processing Division; Administration Division; Logistics Division; Planning and Budget Division; and others to be established by order of the President of the Republic. Chiefs of division shall be appointed by the Director-General of Police, on the proposal of the Deputy Director-General for Management.

Article 16

Ordinary courts shall be competent to try crimes committed against members of the National Civil Police, as well as crimes committed by them, even in the exercise of their functions.

Title II Functions of the Police

Article 17

The functions of the National Civil Police shall be to:

1. Protect and safeguard the free exercise of the rights and freedoms of citizens throughout the national territory.
2. Maintain internal peace, tranquillity, order and public security.
3. Prevent and combat all types of crimes.

4. Make arrests in the cases provided by law.
5. Monitor and supervise the admission, departure, activities and expulsion of aliens and the migration of nationals and monitor and supervise public and private national airports, without prejudice to the constitutional duty of the armed forces to defend the integrity of the territory of the State.
6. Prevent and combat infringements of tax law, under the terms set out in article 10.
7. Grant protection to persons and property throughout the national territory, under the terms set out in article 12.
8. Prevent and combat infringements of the constitutional and legal regime on the manufacture, import, export, trading, possession and bearing of weapons, ammunition, explosives and similar articles.
9. Monitor private security entities or services.
10. Oversee passenger and goods traffic on public thoroughfares and ensure the safety of the roads.
11. Safeguard all land, sea and air communication routes from frontiers, ports and airports.
12. Enforce provisions relating to the protection of the environment.
13. Guard the perimeter of penitentiaries and escort prisoners and detainees.
14. Provide members of the judiciary with the support they need to enforce their decisions.
15. Provide the Attorney-General of the Republic with the support he needs to investigate crimes and, in particular, criminal acts which must be subject to criminal jurisdiction.
16. Provide the National Counsel for the Defence of Human Rights with the support he needs to discharge his duties.
17. Compile and classify data for the preparation of national crime statistics.
18. Assist citizens in cases of public disaster.
19. Participate in any social, civic, cultural or educational programmes which the Government may order through the Minister or Vice-Minister.
20. Any other functions which may be assigned to it by law.

For the purpose of exercising the powers mentioned in subparagraphs 14, 15 and 16 of this article, the Director-General of Police shall detach the necessary police officers at the request of the judge, the Attorney-General of the Republic or the National Counsel for the Defence of Human Rights, as the case may be. In such circumstances, the officers thus detached shall remain within the organizational structure of the National Civil Police, but shall be under the functional authority of the judge, the Attorney-General of the Republic or the National Counsel for the Defence of Human

Rights, as the case may be. The request or authorization of the latter authorities shall be essential in order to release such officers from the duties thus entrusted to them.

Article 18

The exercise of police functions shall be subject to the following code of conduct:

1. Members of the National Civil Police shall at all times observe the duties imposed on them by law, serving the community and protecting all persons from illegal acts, in keeping with the high degree of responsibility required by their profession.
2. In the performance of their tasks, members of the National Civil Police shall respect and protect human dignity and shall preserve and defend the human rights of all persons.
3. Questions of a confidential nature of which members of the National Civil Police have knowledge shall be kept secret, unless compliance with duty or the needs of justice strictly demand otherwise.
4. No member of the National Civil Police may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor invoke the orders of a superior or special circumstances, such as a state of war or threat of war, threats to national security, internal political instability or any other public emergency to justify torture or other cruel, inhuman or degrading treatment or punishment.
5. Members of the National Civil Police shall ensure full protection of the integrity and health of persons in their custody and, in particular, shall take immediate steps to provide medical care when necessary.
6. Members of the National Civil Police shall not commit any act of corruption. They shall also strongly oppose such acts and shall combat them.
7. Members of the National Civil Police who have reason to believe that a breach of these rules of conduct has occurred or is about to occur shall so inform their superiors and, if necessary, any authority or appropriate agency having powers of control or correction.

Article 19

Members of the National Civil Police shall wear the regulation uniform whenever they are on active duty. In exceptional cases, the Minister, or in his absence, the Vice-Minister or the Director-General may give authorization for not wearing uniforms for certain tasks.

Article 20

Members of the National Civil Police shall bear regulation firearms when warranted by the circumstances and their duties.

The use of firearms shall be governed by the following norms:

1. In the performance of their functions, members of the National Civil Police shall, as far as possible, utilize non-violent means before resorting to the use of force and firearms. They

may use force and firearms only when other means prove ineffective or do not in any way guarantee the achievement of the legitimate anticipated result.

2. Members of the National Civil Police shall not use firearms against people except in self-defence or in defence of other people, or in case of imminent danger of death or serious injury, or with the intention of preventing the commission of a particularly serious crime involving a serious threat to life, or for the purpose of arresting a person who represents such a threat and resists their authority, and only where less extreme means prove insufficient to achieve such objectives. In any case, lethal weapons may be used intentionally only when strictly unavoidable for the protection of a life.
3. When the use of firearms becomes unavoidable, members of the National Civil Police shall:
 - a. Exercise restraint and take action proportional to the seriousness of the crime and the legitimate objective pursued;
 - b. Reduce damage and injury to a minimum and respect and protect human life;
 - c. Ensure that medical assistance and services are provided as soon as possible to persons who are injured or otherwise affected;
 - d. Endeavour to notify, as soon as possible, the relatives or close friends of injured or otherwise affected persons.
4. Where members of the National Civil Police cause injuries or death through the use of force or firearms, they shall report the fact immediately to their superiors.
5. As part of the performance of their duty to safeguard the exercise of the rights of individuals, members of the National Civil Police shall protect the exercise of the right of assembly and demonstration. Where, for legal reasons, they are compelled to break up a demonstration or a meeting, they shall use the least dangerous means and only to the minimum extent necessary. Members of the National Civil Police shall refrain from using firearms in such cases, save where the meetings are violent and other means have been exhausted, and only under the circumstances provided for in subparagraph 2 of this article.
6. Exceptional circumstances, such as internal political instability or any other public emergency situation, may not be invoked to justify non-compliance with these norms.

Article 21

Members of the National Civil Police shall not normally be required to live in barracks. Such a regime shall be applied only in exceptional circumstances and for the time strictly necessary.

Article 22

Vehicles, communications systems, uniforms, facilities and, in general, any equipment used by members of the National Civil Police shall be suited to the requirements of a police force of the type defined in this act.

Title III

Police Regulations

Article 23

Members of the National Civil Police shall, in the performance of their duties, be deferred to as representatives of authority for all legal purposes.

Article 24

The duties of the police shall be to:

1. Respect human rights, the Constitution and the law, whatever the circumstances in which they are required to fulfil their mission.
2. Obey and carry out orders and instructions given by their hierarchical superiors, which shall always be consistent with the Constitution and laws of the Republic. Obedience to an order from above shall not be justification for committing acts which are clearly punishable.
3. Show due consideration and courtesy in their relations with the public and with their subordinates. Police shall identify themselves before taking measures that restrict freedom, except where circumstances of in *flagrante delicto* prevent them from doing so.
4. Intervene where necessary, even when off duty, to protect persons and property and to prevent a crime.
5. Refrain from engaging in any other remunerated activity and from receiving gifts or rewards related to the performance of their duties.
6. Refrain from taking an active part, while on duty, in political meetings or demonstrations.
7. Refrain from organizing themselves into unions or other groups pursuing similar aims and from participating in strikes.

Article 25

The rights of the policeman are as follows:

1. A policeman shall enjoy job security. He may not be dismissed except for the reasons provided by law.
2. A policeman shall have the right to be informed by his superiors of the missions, organization and functioning of the service to which he belongs.
3. A policeman shall have the right to be promoted within the ranks of the police force, under the conditions provided for in this act.
4. A policeman shall have the right to remuneration consistent with his rank and length of service.

5. A policeman shall have the right to annual leave of no less than 15 working days. The leave period shall be increased after the fifth year of service, on such conditions as are determined by the rules.
6. A policeman shall have the right to a pension and to social security.
7. In the exercise of his functions, a policeman shall have the following prerogatives:
 - a. To request the cooperation of any authority;
 - b. To have access without charge to collective public transport services;
 - c. To be treated free of charge and on a priority basis in hospitals, clinics and health services, if he is injured in the performance of his duties;
 - d. To be granted facilities for pursuing studies that will enable him to improve his academic level.

Article 26

A policeman shall be responsible for acts committed in the performance of his duties.

Article 27

Members of the National Civil Police shall be subject to the following disciplinary measures, depending on the gravity of the misdemeanour committed:

1. Verbal warning.
2. Written warning.
3. Suspension without pay.
4. Arrest for a maximum period of 15 days.
5. Demotion.
6. Dismissal.

Verbal or written warnings shall be within the competence of each chief of service; the policeman shall, however, have the right of appeal to a disciplinary committee.

The other penalties shall be imposed by a disciplinary committee under the authority of the General Inspectorate. Such penalties may be imposed only by means of a procedure which gives the policeman access to the dossier and which respects the rights of defence.

The investigation of misdemeanours shall be the responsibility of the General Inspectorate, which may act *proprio motu* or on a complaint from any citizen, the chief of service of the policeman concerned, the Attorney-General of the Republic or the National Counsel for the Defence of Human Rights.

Article 28

Members of the National Civil Police may be suspended, with pay, where the best interests of an administrative or judicial investigation so require.

Title IV **Police Career and Manning Table**

Article 29

Personnel of the National Civil Police must have a vocation of service to the community, a capacity for human relations and emotional maturity, and the physical condition required to serve as a police officer. They must be suited to serving in a police force which is designed, structured and operated as a civilian institution with the purpose of protecting and guaranteeing the free exercise of the rights and freedoms of individuals; preventing and combating all types of crimes; and maintaining internal peace, tranquillity, order and public security. They must also be able to adjust their conduct satisfactorily to the doctrine and legal regime of the National Civil Police.

Article 30

The manning table of the National Civil Police shall consist of the following levels and categories:

1. Basic level, with the categories of: constable, officer [corporal] and sergeant.
2. Executive level, with the categories of: deputy inspector, inspector and chief inspector.
3. Senior level, with the categories of: [intendant, senior intendant and superintendent].

Article 31

Admission to the National Civil Police shall be contingent on passing the entrance examinations to the National Public Security Academy and completing the selective basic training course provided there.

The entrance examinations shall be designed to ensure that candidates fit the profile required to belong to the National Civil Police, according to each of the levels of responsibility defined in this act, and shall consist of: a test of general knowledge, a physical examination, a medical examination and a psychological examination. These examinations shall be supplemented by personal interviews with the candidates.

Article 32

The minimum requirements for applicants for the entrance examinations are:

1. Be Salvadorian by birth.
2. Have reached the age of 18 before submitting the application.

3. Have completed the level of studies required for the category concerned.
4. Be physically fit.
5. Have full exercise of their civic rights.
6. Have no criminal record, i.e., convictions resulting from a final verdict.

Article 33

For the categories of constable and officer [corporal], applicants are required to have completed the ninth grade of education or its equivalent. For other categories of the basic level, a high school diploma is required. The executive level requires an intermediate university diploma, or the successful completion of three years of university studies or their equivalent. The senior level requires a university degree or its equivalent.

Article 34

Members of the National Civil Police may be promoted within the categories of the basic level by means of competitive examinations among those with more than two years' service in the lower category who meet the requirements for the category for which they are applying. Those selected must also successfully complete the course organized for the purpose by the National Public Security Academy.

Article 35

At the executive and senior levels, half the posts shall be reserved for internal promotion. The remaining half may be filled by external competitive examination.

Promotion within these categories shall also be by competitive examination among those with more than three years' service in the lower category who meet the requirements for the category for which they are applying. Those selected must also successfully complete the course organized for the purpose by the National Public Security Academy.

Article 36

Administrative, technical and service staff employed by the National Civil Police shall be subject to civil service regulations and shall not belong to the police.

Title V **Transitional Regime**

Article 37

The transitional period for the establishment of the National Civil Police shall be 24 months, starting from the entry of the first contingent of basic-level students to the National Public Security Academy.

Article 38

During the transition, the National Civil Police shall not be attached to any Ministry. The Director-General shall be under the direct authority of the President of the Republic.

Article 39

The National Civil Police shall be run by the Director-General, under the terms laid down by this act.

Article 40

During the period of transition until the functional and territorial structures of the National Civil Police are operating normally, the Director-General shall be appointed by the President of the Republic from a list of three candidates proposed by the National Commission for the Consolidation of Peace (COPAZ).

Article 41

During the transition, the Director-General shall establish appropriate machinery for information and communication with COPAZ so that the Commission can perform its function of supervising the organization of the National Civil Police. As part of the normal exercise of its functions, COPAZ shall designate a subcommission to carry out this task, which shall serve as an advisory commission to the Coordinator or to the Director-General.

Article 42

The National Civil Police shall take up its functions gradually, as contingents graduating from the National Public Security Academy make it possible to staff fully each of the functional and territorial structures provided for in this act. The Director-General shall determine the priorities and order according to which this assumption of functions shall take place.

Article 43

The process of replacing the former security forces shall be carried out by geographical department, making sure that there are no gaps in authority. Within 21 months of the launching of this process, all departments must be covered by contingents of the National Civil Police.

Article 44

While the first senior and executive officers of the National Civil Police are being trained, the Director-General may order the creation of provisional commands for a predetermined period.